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JAPANESE

PATENT, UTILITY-MODEL, DESIGN

AND

TRADE-MARK LAWS

NAKAMATSU INTERNATIONAL PATENT
AND LAW OFFICE,

No. 21, MITSUBISHI BUILDINGS,
MARUNOUCHI, TOKYO,
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UNFAIR COMPETITION LAW

(Law No. 14)

ART. I. One who has committed an act which comes under one of the following descriptions with the object of unfair competition, is liable to an indemnity to the injured party.

1. The act of confusing another's goods with one's own by using the indications similar to or identical with another's name, trade name, trade mark, the container or package of another's goods, or other indications of another's goods, extensively recognized in trade in the districts where this law is enforced or by selling or distributing the goods which have such indications.

2. The act of leading to the misconception of the origin of goods by describing the false country of origin in addition to an imaginary or illegally-used trade name or by selling or distributing the goods which have such indications.

3. The act of making or spreading the false statement which impairs the credit of another's goods.

To the one who has committed the acts of the preceding clause, the court of justice may order the cessation of the acts instead of, or together with, the indemnification at the request of the injured party.

To the one who has committed the act mentioned in Description 3 of Clause 1, the court may further order the measure necessary for the recovery of the credit of goods when requested by the injured party.

ART. II. The preceding article is inapplicable to the act of using the generic name of goods, or the name of a place and other indications customarily used upon the same kind of goods in trade, or the act of selling or distributing the goods using them.

ART. III. A foreigner who has neither a domicile nor a place of business within the districts where this law is enforced, cannot make the request of Art. I, unless otherwise provided for by treaties or their equivalents.

ART. IV. The one identical with or similar to the crests, badges on flags and other badges of a foreign country, specified by the competent minister, cannot be used as a trade mark, nor can the goods which use them as a trade mark be sold or distributed, without the permission of the authorities of such a country.

The crests mentioned in the preceding clause cannot be used in trade by the method which leads to the misconception of the origin of goods, nor can the goods which use them by such method be sold or distributed, without the permission of the authorities of such a country.

The one idential with or similar to the supervisory or certificatory seal or symbol of a foreign country specified by the competent minister, cannot be used as a trade mark of the same or similar goods, nor can the goods which use them as a trade mark be sold or distributed, without the permission of the authorities of such a country.

When permission has been received from the authorities concerned as to the use of the crest, badges on flags and other badges, or official supervisory or certificatory seals or symbols, of the Empire, the preceding three clauses are inapplicable, even when they may be the same with or similar to the crests, badges on flags and other badges, or official supervisory or certificatory seals or symbols of a foreign country.

ART. V. One who has infringed the provision of the preceding article, is liable to a fine not more than One thousand yen.

ART. VI. Descriptions 1 and 2 of Clause 1 of Art. I and Clauses 1-3 of Art. IV are

not applied to the acts to be recognized as the exercise of right by the Patent Law, Utility-Model Law, Design Law, or Trade-Mark Law.

Supplementary provision. The date of the operation of this law shall be determined by Imperial Ordinance.

LAW FOR THE AMENDMENT OF THE TRADE MARK LAW

(Law No. 15)

The following revisions are made in the Trade Mark Law.

The following description is added next to Art. II, Clause 1, Description 2 :—

2 (2). The one identical with or similar to the crests, badges on flags and other badges (except the national flag) of a country which is a member of the International Convention for the Protection of Industrial Property, specified by the competent minister.

The following description is added next to Description 3 of the said Clause :—

3 (2). The one identical with or similar to the official supervisory or certificatory seal or symbol of a country which is a member of the International Convention for the Protection of Industrial Property, specified by the competent minister, and used on the identical or similar kind of goods.

The proviso of Art. XXIII is amended as follows :—

"Those cases being excepted, which are based upon the ground that the registration contravenes Descriptions 1-4, 6, 7 and 11 of Clause 1 of Art. II, the proviso of Art. XI, Clause II of Art. XV or Art. XXXII or XXXIII of the Patent Law, which is applicable mutatis mutandis according to Art. XXIV or that the registration contravenes Description 8 of Clause 1 of Art. II, concerning the registration of the trade mark obtained with malicious intention."

Supplementary Provision. The date of the operation of this law shall be determined by Imperial Ordinance.

A trial for the invalidation of the registration of a trade mark or of a renewal of the period of duration of a trade mark effected prior to the operation of this law, shall be treated as heretofore.

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FOREWORD

In response to a wide and eager demand we have prepared this English translation of the Laws relating to the industrial property in Japan together with their amendment of the recent date. To this translation great effort has been given to convey the meaning of the original as faithfully as possible. However, it is our first undertaking of this kind and we seek to publish a more perfect booklet in the near future when we have completed the translation of the official regulations for the enforcement of the said Laws. Also, we are contemplating the translations in other leading European languages for the convenience of those desiring to understand our laws in their mother tongues. In the meantime, we shall be very pleased, if this booklet forms a good assistance and reference for all our colleagues and clients who are interested in the protection of industrial property in this country.

MORIO NAKAMATSU

Nakamatsu International Patent and Law Office,

Tokyo, January, 1932.

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THE PATENT LAW

CHAPTER I.—GENERAL PROVISIONS

ART. I. Any person who has made a new industrial invention may obtain a patent for the same.

ART. II. Any patentee, or any person who has made an application for a patent, may obtain, instead of an independent patent, a patent of addition for any new invention which represents an improvement or an enlargement of the invention constituting an object of the patent-right or of the application.

ART. III. The following inventions are not patentable:

1. Articles to be consumed as food, drink or stimulants.
2. Medicines, or methods of compounding their ingredients.
3. Matters produced through chemical processes.
4. Any invention liable to disturb public order or morals, or to be injurious to health.

ART. IV. Inventions termed "new" in the application of this Law are those which do not come under any of the following descriptions:

1. Those which have been publicly known or used in the Empire prior to the application for patent.
2. Those which have been described in printed publications distributed in the Empire, prior to the application for patent, in such a degree that can be easily worked out.

ART. V. In case, as a result of experiments thereon, an invention comes under one of descriptions given in the preceding Article, the said invention shall be conclusively presumed to be new; provided that the application for a patent therefor is filed within six months from the date of the event.

Even if an invention comes under one of descriptions given in the preceding Article, contrary to the intention of a person entitled to obtain a patent, the case shall be the same; provided that the application for a patent therefor is filed within six months from the date of the event.

ART. VI. In case an invention of a person entitled to obtain a patent therefor may come under one of descriptions given in Art. IV, on account of its being exhibited at an exposition held by the Japanese Government, or by her "Do", "Fu" or "Ken" government, or any other body which may be deemed corresponding to the latter, or at an exposition approved of by the Government, or on account of its being exhibited at an international exposition held by, or with the approval of the Government, in the dominion of one of the treaty-powers in the International Union for the Protection of Industrial Property, the same invention shall be conclusively presumed to be new; provided that the application for a patent therefor is filed within six months from the date of the opening of the respective exposition.

When there is a necessity for giving protection to inventions to be exhibited at an exposition which is other than the international exposition mentioned in the preceding clause, and which is held, in the dominion of a foreign country, by, or

with the approval of, the Government thereof, the case shall be determined by Imperial Ordinances.

ART. VII. An application for a patent shall be filed for each invention, the case being excepted, when two or more inventions are regarded to make one invention by being mutually connected in their utility.

ART. VIII. For the identical invention, patent shall be granted only to the first applicant; provided that, when there are different applicants of the same date, patent shall be granted through their agreement, and when no agreement is reached, no patent shall be granted.

ART. IX. When an application for a patent comprising two or more inventions is divided into two or more applications, each of those applications shall be conclusively presumed to have been duly made on the date of its first being filed at the office.

The case shall be the same, when an application for a patent of addition is altered into one for an independent patent or vice versa.

ART. X. In case a patent cannot be granted, owing to the applicant's not being the successor to the right of obtaining it or his having made an unauthorized assumption of the same right, the application by the rightful applicant made later than the above-mentioned illegal application, shall be conclusively presumed to have been duly made on the date of the application for the patent which became unentitled to be obtained; provided that the rightful application be made within thirty days from the date when the patent became unentitled to be

obtained, or from the date of the advertisement of the first application.

ART. XI. When a patent is finally judged invalid by the Patent Office, or judged to the same effect by the Supreme Court of Law, owing to its having been granted to one who is not the successor to the right of obtaining it or one who has made an unauthorized assumption of the same right, the application by the rightful applicant made later than the above-mentioned application for the said patent shall be conclusively presumed to have been made on the date of the application for the said invalidated patent; provided that the latter application be made within five years from the date of the advertisement of the former application, or thirty days after the judgment of the Patent Office became final or the judgment of the Supreme Court of Law was passed.

ART. XII. The right to obtain a patent may be transfered, but not be granted as a security.

When the right to obtain a patent is held as one of co-ownership, none of the co-owners may assign his own share without the consent of the others.

Succession to the right of obtaining a patent may not be set up against a third party, either before the patent has been applied for, unless the application thereof has been filed by the successor; or after the application has been filed, unless notification of a change in the applicant's name is made by him; when such applications or notifications are of the same date, the same succession may be set up against a third party through the agreement of the parties concerned, and when

no agreement is reached, it may not be set up against a third party.

ART. XIII. Periods prescribed or designated by this Law or by the Ordinances issued by virtue thereof shall be reckoned according to the following prescriptions :

1. The first day is not included in the period, unless the period begins to run from midnight.
2. Periods fixed by the unit of a month or a year shall be reckoned according to the calendar. When the period does not begin to run from the first day of a month or the beginning of a year, it expires on the day in the last month or year preceding the one which corresponds to the day from which the period begins to run. When, however, there is no day in the last month corresponding to the last-mentioned date, the period is reckoned as expiring on the last day of the same month.

In case the last day of the period prescribed or designated for an application, a request or any other proceeding relative to patents, falls on a Sunday or a public holiday or function, the period will expire on the day following.

ART. XIV. As for an invention made by an employee, the staff of a corporation, or a public functionary, and made in connection with the discharge of his service, any provisions made in a clause of those contracts or regulations for his service by which the patent-right or the right of obtaining a patent is transfered beforehand to an employer, corporation, or one who directs or orders the performance of the

business, are held to be invalid; the cases being excepted, which belong substantially to the business spheres of the above-mentioned classes of persons, and in which the employee, the staff of a corporation, or the public functionary has been led to the said invention in the course of discharging their respective duties.

When the patent has been obtained by the employee, the staff of the corporation, the public functionary, or any successor to the right of obtaining the patent thereof, the employer, the corporation, or one who directs or orders the performance of the business shall have a license for working the patented invention; provided that the invention has been not only made by the employee, the staff of the corporation, or the public functionary in connection with the discharge of his service, substantially belonging to the business spheres of the employer, the corporation or one who directs or orders the performance of the business, but has also been of such a nature as the employee, the staff of the corporation, or the public functionary has been led to it in connection with the discharge of their respective duties.

In case the right of obtaining the patent for the invention mentioned in the preceding clause, or the patent-right for the same invention be transfered to the employer, the corporation, or one who directs or orders the performance of the business, according to a contract or to their service-regulations, in which the conditions for its succession are provided for, then the employee, the staff of the corporation, or the public functionary shall be entitled to an adequate compensation.

In determining the amount of the compensation above-mentioned, an allowance may be made for it by a Court of Law, when some remuneration has been paid by the employer, the corporation, or one who directs or orders the performance of the business.

By "the staff of the corporation" mentioned in the present Article is meant those who are engaged in the business of the corporation, and "a public functionary" means here one who is described in Clause I of Art. VII of the Criminal Code.

ART. XV. When, for military reasons, secrecy is required for an invention for which an application for a patent has been filed, or when the invention is one of urgent necessity from considerations of military reasons or of public interest, no patent shall be granted, or the patent-right may be expropriated by the Government, or a patent may be granted with some limitations.

In the cases where, according to the provision of the preceding clause, no patent is granted, or the patent-right is expropriated, or a patent with some limitations is granted, the Government shall make adequate compensations.

The conditions of the expropriation and of the compensation shall be prescribed by Imperial Ordinances.

ART. XVI. Without being represented by an agent who is domiciled or resident in Japan, no one, who is not domiciled or resident in the Empire, may make an application or a request, or take any action with regard to a patent, nor may he assert any claim with reference to a patent-right, or to the rights connected with a patent, unless otherwise prescribed

in Ordinances.

The agent, who makes an application or a request, or asserts any claim according to the prescription given in the preceding clause, is, in addition to those powers specially delegated, invested with authority to represent his principal in the legal procedure prescribed by this Law, or by the Ordinances to be issued under this Law, as well as in civil actions, private criminal actions, or complaints regarding the same patent.

Unless the agent of a patentee or owner of a registered right connected with a patent, who takes up any such legal step or asserts any claim as prescribed in Clause I, is registered in his appointment or change, or in his power of agency or any alteration or expiration of the same power, such a fact may not be set up against a third party.

ART. XVII. Unless the agent who makes for another person an application or a request, or takes any other steps with respect to a patent, but is not such as prescribed in Clause III of the preceding Article, is notified to the Patent Office in his appointment or change, or in his power of agency or any alteration or expiration of the same power, such a fact may not be set up against the Patent Office.

ART. XVII (2). The power of agency, held by a mandatory agent on behalf of one who makes an application or a request, or takes any other steps with respest to a patent, does not lapse because of the death or disqualification of the principal, of the extinction of a corporation as the principal due to its amalgamation with one or more corporations, of the

conclusion of trust service of a trustee as the principal, of the death or disqualification of a legal representative, or of the change or lapse of his power of agency. (Added by Law 47 of the 4th year of Showa, and Enforced on October 1st of the same year according to Imperial Ordinance No. 289 of the same year.)

ART. XVIII. When there are several agents connected with a patent, each agent shall represent his respective principal in the affairs vis-à-vis the Patent Office. (Amended by Law 47 of the 4th year of Showa and Enforced on October 1st of the same year.)

ART. XIX. When the President of the Patent Office deems an agent connected with a patent as unfit, he may order his release by another.

When the President or the Presiding Judge of the Patent Office deems a party concerned, intervener, protester, or his agent to be unqualified to carry out procedures or to make statements, he may order the appointment of a patent-attorney as agent.

After announcement is made of the orders prescribed in the preceding two clauses, any act may be rendered invalid, which is performed vis-à-vis the Patent Office by an agent mentioned in Clause I or by a party concerned, intervener, protester or his agent mentioned in the preceding clause.

ART. XX. No one but patent attorneys may practise the business of agency in connection with matters to be performed vis-à-vis the Patent Office.

Art. XXI. When several persons jointly make an application or a request, or take any other steps in connection with a patent or when they are co-owners of a patent-right, each of them shall represent the others vis-à-vis the Patent Office, excepting the case when there is a representative specially appointed for it and the Patent Office is notified thereof.

The prescription made in Art. XVII is applicable mutatis mutandis to the representative mentioned in the proviso of the preceding clause.

Art. XXII. When a patentee has neither domicile nor residence in the Empire, the domicile or residence of his agent mentioned in Clause II of Art. XVI is conclusively presumed to be the site of his property as mentioned in Art. VIII of the Code of Civil Procedure, and for one who has no such agent, the place where the Patent Office is situated is conclusively presumed as the said site of his property. (Amended by Law 47 of the 4th year of Showa and Enforced on October 1st of the same year.)

Art. XXIII. For persons residing in foreign countries or in remote districts or in localities where communication is difficult, the President of the Patent Office may, in compliance with their request or ex-officio, extend periods prescribed for procedures to be taken vis-à-vis the Patent Office or a Court of Law. (Ditto)

Art. XXIV. When a person, who has made an application or a request or has taken any other steps, has been negligent to take, in connection with it, subsequent proceedings

within the designated period or has failed to pay the patent-fee due at its registration, the President of the Patent Office may invalidate such application or request or any other steps taken, except the cases specially prescribed in this Law.

In case an application or a request or any other steps taken has been rendered invalid according to the prescription made in the preceding clause, the President of the Patent Office may, in compliance with a request made not only within fourteen days from the cessation of the obstruction, but also within a year after the expiration of such period, cause the consequence of such negligence to be avoided, when he deems such negligence to have been caused by an excusable obstruction.

ART. XXV. In case the period prescribed in Arts. CIX and CXV, Clause I of Art. CXXII of the Patent Law, or Art. CCCCXV of the Code of Civil Procedure which is applicable mutatis mutandis in this Law can not be observed by one who makes an application or a request or takes any other steps with respect to a patent, owing to some cause beyond his own responsibility, the neglected proceedings may be subsequently accomplished within fourteen days from the day of cessation of that cause and within a year after the expiration of the said period. (This Article amended by Law 47 of the 4th year of Showa and Enforced on October 1st of the same year.)

ART. XXVI. The time-limit when various documents and other matters sent to the Patent Office shall take effect as sent in, shall be prescribed by Ordinances.

ART. XXVII. Any steps, taken by or against a patentee or any person who is entitled to any right relative to a patent, and taken in accordance with the provisions of this Law or of Ordinances issued under this Law, shall take effect upon a person who has succeeded to such a patent-right or a right relative to a patent.

ART. XXVIII. When a transfer is made of a patent-right or any right relative to a patent, while there is a case pending in the Patent Office, further proceedings may be taken vis-à-vis the successor.

ART. XXIX. The interruption or suspension of the proceedings pending in the Patent Office, as well as the continuation of such interruption or suspension, shall be prescribed by Ordinances in addition to those prescribed in this Law.

ART. XXX. When in connection with a patent, any person is desirous of getting a certificate, a duplicate of letters-patent, a copy of documents, or a draft, or desirous of being allowed to inspect or transcrible documents, he may apply to the President of the Patent Office for the permission to do so, which, however, shall not be given in those cases where secrecy is deemed necessary by the President of the Patent Office.

ART. XXXI. With reference to inventions, requiring secrecy for military reasons, special provisions may be made by Ordinances in addition to those prescribed in this Law.

ART. XXXII. An alien, not having his domicile or a place of business in the Empire, may not receive a patent-right or a right connected with a patent, except in those cases provided

for in a treaty or in anything corresponding thereto.

ART. XXXIII. Where there are, with reference to patents, special provisions made in a treaty or in anything corresponding thereto, such provisions shall be observed.

CHAPTER II.—PATENT RIGHT

ART. XXXIV. A patent-right comes into existence by virtue of registration.

ART. XXXV. A patentee shall have the exclusive right, in the case of a patent of invention of an article, of manufacturing, using, selling, or circulating the article, and, in the case of a patent of invention of a process, of using the same process and of using, selling, or circulating articles manufactured by it.

New, but identical articles are presumed to have been made by the identical process.

In case a patent-right conflicts with a utility-model right, the application for which has been made prior to the day of its own application, or in case a patented invention utilizes a registered utility-model, the application for which has been made prior to the day of its own application, the patentee may not work the patented invention, unless the owner of the same utility-model right gives the permission for its being worked.

ART. XXXVI. The force of a patent-right does not extend to any of the following descriptions :

1. Working of a patented invention for the purpose of making researches or experiments.
2. Conveyances for the mere purpose of passing through

the Empire, and their fittings.

3. Articles existing in the Empire at the time of the application being filed for a patent.

ART. XXXVII. Any person, who, at the time of application for a patent of an invention, is engaged in business of working, or has an industrial equipment for working, actually, bona fide, and in the Empire, the said invention, shall have the license of working the same invention to be patented within such scope of the said invention as it forms by itself the object of the business.

ART. XXXVIII. Any person, who, before the registration of a suit for invalidating a patent, was engaged in business of working or had an industrial equipment for working, bona fide, in the Empire, and under any of the following descriptions, the invention in the said suit, shall have the license of working the same patented invention within such scope of the said invention as it forms by itself the object of the business:

1. A former patentee registered as such, in case one out of the two or more patents granted for the identical invention has been invalidated.
2. A former patentee registered as such, in case his patent has been declared void and the identical invention has been patented for its rightful owner.
3. A person who has obtained the license of working the patent-right invalidated as mentioned in the two preceding descriptions, and has been registered thereof. In case, however, the same license is in force as mentioned in Clause I of Art. LII, no registration

shall be required, though it is not yet registered.

In case the term expires for the duration of a utility-model right conflicting with the patent-right in question, whose application has been filed prior to or on the day of application for the same patent, the licensee registered for working the same utility-model right, shall be entitled to work the patented invention within the scope of the former license. In case, however, the former license is in force as mentioned in Clause I of Art. XIII of the Utility-Model Law, no registration shall be required, though it is not yet registered.

The patentee is entitled to obtain an adequate compensation from the licensee prescribed in the two preceding clauses.

ART. XXXIX. After the expiration of the term for duration of a utility-model right conflicting with the patent-right in question, whose application has been filed prior to or on the day of application for the same patent, the former owner of the utility-model right shall have the license of working the patented invention within the scope of the former right.

ART. XL. When the patented invention requires secrecy for military reasons, or when it is a matter of urgent necessity from a military point of view or from that of public interest, the Government may limit the patent-right, cancel the patent itself, expropriate the patent-right, or work the patented invention.

When the patent-right has been expropriated, any right relative to the patented invention shall expire, excepting the same patent-right.

In the case of the limitation, expropriation, cancellation, or working prescribed in Clause I, an adequate compensation shall be paid by the Government to the patentee, or to the licensee of working the patented invention.

Matters respecting the expropriation or the working of the patent-right, and the payment of the compensation, shall be prescribed by the Imperial Ordinances.

ART. XLI. In cases where, without proper reasons, a patented invention has not been adequately worked in the Empire for more than three continuous years after it was patented, the President of the Patent Office may, in compliance with the request of an interested party, grant a license of working it or cancel the patent, or may ex-officio cancel the same patent, if such a step is deemed necessary from the view-point of public interest.

If the patentee or the interested party is dissatisfied with the disposal of the grant of the license of working the same invention or with that of the cancellation of the patent, prescribed in the preceding clause, or dissatisfied with the rejection of the request mentioned in the preceding clause, he may present a petition to a higher authority directly concerned.

In case the right of working the patented invention is granted according to the provision of Clause I, the President of the Patent Office shall also determine a compensation.

ART. XLII. In cases where the patented invention is not adequately worked by a person who has, according to the provision of the preceding Article, acquired the license of work-

ing it, the President of the Patent Office may, ex-officio or in compliance with the request of an interested party, cancel the same license.

When dissatisfied with the disposal of the cancellation of the license prescribed in the preceding clause, or with the rejection of the request mentioned in the preceding clause, the licensee or the interested party may present a petition to a higher authority directly concerned.

ART. XLIII. The period of duration of a patent-right is fifteen years, which will be reckoned, from the date of the advertisement of the application, when there has been an advertisement made for it, or from the date of its patent being granted, when there has been no advertisement made for it.

When the patent has been granted to its rightful owner according to the provision of Art. X, and when an advertisement has been made of the application for which the patent became unentitled to be obtained, the duration of fifteen years mentioned in the preceding clause will be reckoned from the day following that of the advertisement made of its application.

When the patent has been granted to its rightful owner according to the provision of Art. XI, the period of fifteen years mentioned in Clause I shall be reckoned from the day following that of the advertisement made of the application for the patent which has been invalidated.

When a patent-right of addition has become one of an independent patent, the period of duration thereof is what remains of the period for the original patent-right, as is the case also with the period of duration of separate patent-rights

granted according to the provision of Clause II of Art. LIII.

The period of duration of a patent-right may be extended, in accordance with prescriptions made in the Imperial Ordinances, not less than three years and not more than ten years.

ART. XLIV. A patent-right may be transferèd with or without limitations.

In case of the patent-right of co-ownership, those who jointly own it may not assign their shares without the consent of the other co-owners.

ART. XLV. The transference, expiration by abandonment, or limitation of disposal, of a patent-right, or the establishment of a right of mortgage with a patent-right as its object, or its transference, alteration, expiration, or limitation of disposal, may not be set up against a third party, unless it has been registered.

ART. XLVI. A right of patent of addition follows the original patent-right.

ART. XLVII. In case of a patent-right of co-ownership, each owner may work the patented invention without the consent of the other co-owners, when no particular arrangement is made for it in the contract.

ART. XLVIII. A patentee may grant to another person a license to work his patented invention.

In case of a patent-right of co-ownership, each owner may not grant to another person a license to work his patented invention without the consent of the other co-owners.

ART. XLIX. In cases where a patentee cannot work his own patented invention, unless a patented invention or a re-

gistered utility-model of another person can be worked, such patentee may request a trial, when the other person refuses, without proper reasons, to permit the working thereof, or when it is impossible to obtain such permission from the same person; provided that, where the working of the other person's patented invention is necessary, three years have elapsed since the date on which the patent-right of the invention to be worked came into existence.

In case a person, whose patented invention is to be worked according to the provision of the preceding clause, has requested the other party to permit the working of its patented invention necessary to be worked, a trial may be requested, when the same other party refuses, without proper reasons, to permit the working thereof, or when it is impossible to obtain such permission from the same other party.

ART. L. The licensee prescribed in Art. XLI or the preceding Article shall pay to the patentee or to the owner of the utility-model right an adequate compensation.

Unless the licensee mentioned in the preceding clause has paid in such compensation, or has made a deposit of an equivalent sum of money, in case it is impossible to be paid, the said patented invention or the said registered utility-model may not be worked. When, however, a deposit of money has been made corresponding in its amount to that of the compensation prescribed in the determination mentioned in Art. XLI, or the judgment of the Patent Office or of the Court of Law, the said patented invention may be worked, even before the above-mentioned determination or judgment becomes final.

ART. LI. The license prescribed in Art. XLIX follows its patent-right.

The license of working a patented invention may be transfered, except the one mentioned in the preceding clause, in case it is transfered together with the business of working the invention, or in case the patentee gives his consent for the same transference.

ART. LII. When it has been registered, the license of working the patented invention becomes valid vis-à-vis those persons who have subsequently acquired such patent-right or who have acquired a right of mortgage subsequently established with such patent-right as its object.

Even if it is not registered, the license prescribed in Clause II of Art. XIV or in Arts. XXXVII–XXXIX is in such force as mentioned in the preceding clause.

The license prescribed in Art. XLIX becomes valid vis-à-vis those persons who have a right of mortgage established before its registration.

The provision made in Art. XLV may be applied mutatis mutandis to the transference, alteration, expiration, or limitation of disposal, of the license, or to the establishment, transference, alteration, expiration, or limitation of disposal, of the right of mortgage which has the same license as its object.

ART. LIII. When a patentee has discovered that the specification or drawings of the patented invention have been imperfectly prepared, a trial for permission to amend the said specification or drawings may be requested, so far as it has any of the following descriptions as its object:

1. Reduction of the extent of the claims of patent.
2. Correction of clerical errors.
3. Explanation of indefinite descriptions.

A patentee may request a trial for permission to divide his patent-right into separate and independent patents, only when it has been explained that two or more than two inventions were included into one patent by mistake.

The part remaining in the case of Description 1 of Clause I or each of the inventions in the case of the preceding clause, must constitute by itself a novel and independent invention at the time of its application for a patent.

ART. LIV. So far as the preceding Article is concerned, the extent of the claims of patent shall not be materially enlarged or altered.

ART. LV. A patentee may neitther abandon his patent-right, nor request a trial for permission according to the provision made in Art. LIII, unless consent is obtained from a person who has acquired the patent-right by limited assignment thereof, or from the owner of a right of mortgage therein, or from the licensee in accordance with the provision made in Clause II of Art. XIV or Art. XLVIII.

ART. LVI. A preferential right or a right of mortgage may be enforced for the compensation receivable under this Law, or for the price of a patent-right, or for the money, or articles other than money, receivable for the working of a patented invention, provided that attachment be made before such payment or delivery.

ART. LVII. A patent shall be rendered invalid through

a trial, when it falls under any one of the following descriptions :

1. When a patent has been granted in contravention of the provisions of Arts. I–III, Art. VIII, or Art. XXXII.
2. When a patent has been granted to a person who is not the successor of the right of obtaining it, or who has made an unauthorized assumption of the same right.
3. When matters necessary to the working of a patented invention are intentionally omitted in its specification or drawings, or when matters not necessary to the working of a patented invention are intentionally added to its specification or drawings, for the purpose of making the working impossible or difficult.
4. When, in case a patent has been granted in contravention of the provision of the treaty prescribed in Art. XXXIII or anything corresponding to the same, its contravention is something corresponding to what is mentioned in Descriptions 1–3.
5. When a patent has been made later on to contravene the provision of Art. XXXII, or when, in case a patent has been made later on to contravene the treaty prescribed in Art. XXXIII or anything corresponding to the same, such contravention is something corresponding to what is mentioned in Descriptions 1–3.

A permission mentioned in Art. LIII shall be rendered invalid through a trial, when it contravenes the provision made

in Clause III of the same Article or in Art. LIV.

A patent or a permission mentioned in Art. LIII shall be rendered invalid by the provisions made in the two preceding clauses, even after the expiration of a patent-right.

Art. LVIII. When a patent has been rendered invalid, the patent-right is conclusively presumed not to have existed from the beginning. When, however, a patent has been rendered invalid by the provision made in Description 5 of Clause I of the preceding Article, the same patent-right is conclusively presumed not to have existed from the time when the patent has been made later on to come under the same description.

When a permission mentioned in Art. LIII has been rendered invalid, it is conclusively presumed not to have been permitted from the beginning.

When a patent has been revoked, or when the license of working a patented invention has been revoked as prescribed in Art. XLII, the patent-right or the license is considered to be invalid since then.

Art. LIX. A patent-right expires, when there is no heir.

Art. LX. When, in cases where a patent has been revoked or rendered invalid, or where a patent-right has expired, there exists a patent-right of addition, such patent-right of addition becomes an independent patent-right. When a patent-right has expired in accordance with the provision made in Clause II of Art. LXIX, such patent-right of addition becomes an independent patent-right, as soon as the period for payment in arrear mentioned in Clause I of the same Article expires.

When, in the case of the preceding clause, there is a patent-right of addition in connection with what has become an independent patent-right, such patent-right of addition becomes the patent-right of addition added to what has become independent.

CHAPTER III.—REGISTRATION, LETTERS-PATENT, OFFICIAL JOURNALS AND SPECIFICATIONS, PATENT MARKS AND PATENT FEES.

ART. LXI. There shall be kept at the Patent Office a Patent Register, in which shall be entered the establishments, maintenances, transferences, alterations, expirations, and limitations of disposal, of patent-rights, of licenses of working patented inventions, and of rights of mortgage which have the above-mentioned rights as their objects, besides other particulars prescribed by Laws or Ordinances.

Regulations regarding registration are determined by Ordinances.

ART. LXII. When a decision or a judgment by the Patent Office has become final, or when a judgment by the Supreme Court of Law has been passed, to the effect that a patent shall be granted, it shall be entered in the Patent Register, and a Letters-Patent shall be issued. The same provision is applicable, when the judgment by the Patent Office for the permission prescribed in Art. LIII has become final, or the judgment by the Supreme Court of Law has been passed for it.

ART. LXIII. The Patent Office shall publish the Patent

Journal and Specifications of the Patented Inventions, in which shall be stated particulars prescribed in the Law, and the other necessary particulars relating to any patented invention, excepting those patented inventions which require secrecy for military reasons.

ART. LXIV. Patent Marks shall be affixed to the patented articles. When it is impossible, on account of the nature of articles, to place such marks thereon, they shall be affixed to the containers, wrappers, etc. thereof.

A patentee may demand, of those who have licenses to work his patented invention or of those who work it as provided for in Description 1 of Art. XXXVI, that the patent marks be placed on those patented articles.

Damages may not be claimed from a person who, not knowing that the article is patented as it has no patent-mark affixed thereon, has infringed a patent-right.

In cases where the essential parts of a patented article are detached and sold or circulated, the provisions of the three preceding clauses are applicable mutatis mutandis to those parts so detached and sold or circulated.

ART. LXV. A person who obtains registration of a patent-right, or an owner of letters-patent shall pay, every year for the fifteen years mentioned in Clause I of Art. XLIII, as Patent-Fee, for each case, the following amount:

1. For the period from 1st year to 3rd year, inclusive, annually, ten Yen.
2. For 4th year and 5th year, inclusive, annually, fifteen Yen.
3. From 6th year to 9th year, inclusive, annually,

twenty-five Yen.

4. From 10th year to 12th year, inclusive, annually, thirty-five Yen.

5. From 13th year to 15th year, inclusive, annually, fifty Yen.

A person who obtains registrasion of an extension of the period of duration of a patent-right, or an owner of the letters-patent shall pay as Patent-Fee, for each case, the following amount:

1. For the period from 1st year to 3rd year, inclusive, annually, one hundred Yen.

2. From 4th year to 6th year, inclusive, annually, one hundred and fifty Yen.

3. From 7th year to 10th year, inclusive, annually, two hundred Yen.

A person who obtains registration of a patent of addition shall pay as Patent-Fee, for each case, the amount of Thirty Yen at one time, when registration is obtained for it.

In case of an extension of the period of duration of a patent-right, which has a patent-right of addition, the amount of Sixty Yen shall be paid at one time as Patent-Fee, for each case, when registration is obtained for the said patent-right of addition.

A person who obtains registration of a separate and independent patent-right prescribed in Clause II of Art. LIII, or an owner of letters-patent, shall pay Patent-Fee for each of the patent-rights, beginning with that due to the year specified for the original patent-right. The amount of money already paid

in as Patent-Fee shall, however, be appropriated for a part of the patent-fee due.

In cases where a patent-right of addition has been made an independent one, or where a patent has been granted to its rightful owner in accordance with the provision of Art. XI, a person who obtains registration of the patent-right, or an owner of letters-patent, shall pay its Patent-Fee, beginning with that due to the year specified for the original patent-right. The provisions of the six preceding clauses are not applicable to patents owned by the State.

ART. LXVI. Patent-Fee for the period from the 1st year up to the 3rd prescribed in Clause I of the preceding Article shall be paid at one time in advance, while Patent-Fee for the 4th and the following year prescribed in the same clause, and that prescribed in Clause II of the preceding Article shall be paid in advance for each following year. This does not, however, prevent the payment of fees for several years in advance.

Patent-Fee prescribed in Clause I of the preceding Article as covering the period from the 1st year to the 3rd, or that prescribed in Clause III of the preceding Article may be, by the President of the Patent Office, deferred in its payment for a period not exceeding two years, reduced in its amount, or exempted altogether, in case a person who has to pay it is the inventor or his heir and is deemed to be without means to make such payment.

ART. LXVII. An interested party may pay Patent-Fee in place of a person who has to pay it.

ART. LXVIII. Patent-Fees, which have already been paid

in, shall not be refunded.

ART. LXIX. An owner of letters-patent may pay the Patent-Fee within six months after the expiration of the time-limit for its payment. In such a case, an amount twice as much as that prescribed in Art. LXV shall be paid as the Patent-Fee.

When the Patent-Fee is not paid within the period of time prescribed for it in the preceding clause, the patent-right is conclusively presumed to have expired at the point of time when the Patent-Fee is to be paid in.

CHAPTER IV.—EXAMINATION

ART. LXX. When an application for patent is filed, an examiner is caused to examine it.

ART. LXXI. The prescription made in Art. XCI is applicable mutatis mutandis to the exclusion of an examiner from his participation in an examination.

ART. LXXII. When an application is deemed to be rejected, the examiner shall notify to its applicant the reasons for rejecting the same, and give him an opportunity for submitting statements of the opinions within the specified period of time.

ART. LXXIII. When there are no reasons found for rejecting the application, the examiner shall determine an advertisement to be made of the application.

When such a determination is given according to the prescription of the preceding clause, the Patent Office shall make, in its Patent Journal, an advertisement of the application, giving the date of the application, the name of the inventor,

the name, title, and domicile of the applicant, as well as the summary of the application.

When such an advertisement of the application has been made, the patent-right of the invention thus applied for shall be conclusively presumed to have come into existence on the date of its advertisement.

At the same time with the advertisement of the application, the Patent Office shall present, for the public inspection, at the Patent Office or at some other places appointed by Ordinances, the documents of the application and the other matters related to the same.

According to the applicant's request, the Patent Office may postpone the advertisement of the application within the period of six months from the date of the determination for its advertisement.

As for the application for the patent of the invention, for which secrecy is deemed necessary for military reasons, a decision shall be made without the determination for its advertisement.

ART. LXXIV. In case the advertisement be made of an application, any person may protest to the Patent Office, against a patent's being granted, within two months from the date of the above-mentioned advertisement.

Any protest against a patent's being granted should be made in the form of a written protest, stating the reasons for it.

Any interested party may intervene in the protest made against a patent's being granted until a determination be given

for such a protest.

Prescriptions concerning the intervention of the trial shall be applied mutatis mutandis to the intervention in a protest made against a patent's being granted.

Art. LXXV. In case a protest be made against a patent's being granted, examiners shall deliver to its applicant a duplicate of the written protest, and, for the purpose of giving him an opportunity for submitting written replies, appoint a period of time for that purpose,

After the expiration of the period of time specified, in Clause I of the preceding Article, for making protests against a patent's being granted, and after that of the period of time prescribed in the preceding clause, examiners shall give a determination concerning the protest made against a patent's being granted, and, at the same time, shall pass a decision whether a patent is to be granted to that application or not.

Reasons shall be stated for a determination given for such a protest.

No dissatisfaction may be stated for any determination given for such a protest.

If necessary, examiners may order a revision to be made of the specification or drawings of a patented invention, as a result of the protest made against a patent's being granted.

Art. LXXVI. Provisions concerning the expenses of the trial shall be applied mutatis mutandis to the question of the expenses for the taking of evidence about the protest made against a patent's being granted.

Art. LXXVII. In case no protest be made against a

patent's being granted, examiners shall make a decision.

Art. LXXVIII. When, after its advertisement, an application has been abandoned, withdrawn, or invalidated; when, after its advertisement, the decision or judgment for its rejection by the Patent Office has become final, or the judgment of the Supreme Court of Law has been passed; or when, after its advertisement, a patent has been rendered invalid, except the case mentioned in the proviso of Clause I of Art. LVIII; the effect of the patent-right prescribed in Clause III of Art. LXXIII is conclusively presumed to have been non-existent from the beginning.

Art. LXXIX. When an application has been made by the rightful applicant for a patent as prescribed in Art. X or XI, the examiners shall give their decisions, without making a further advertisement, so far as any other application already advertised relative to the same invention is concerned.

Art. LXXX. The prescriptions made in Art. C and in Clause I of Art. CXVIII shall be applied mutatis mutandis to the examination.

Art. LXXXI. Reasons shall be given for decisions.

Art. LXXXII. Documents to be delivered concerning the examination, in addition to those prescribed in this Law, and prescriptions concerning their delivery, shall be prescribed by Ordinances.

Art. LXXXIII. If necessitated in a civil or criminal action, a law court may suspend its legal procedure, until the patent in question is granted or the decision for its rejection has become final.

CHAPTER V.—TRIAL, TRIAL ON APPEAL, AND ACTION AT A COURT OF LAW

ART. LXXXIV. A trial may be requested, regarding the following matters, in addition to those prescribed in this Law or in Imperial Ordinances issued under this Law :

1. Invalidation of a patent or permission under the prescription of Art. LVII.
2. Confirmation of the limits of a patent-right.

A request for a trial for invalidation mentioned in the Description 1 of the preceding clause may be made only by an interested party or by an examiner. An examiner may not, however, make a request for a trial for invalidation, on the ground that the patent contravenes the provision of Art. VIII, or that it comes under Description 2 of Clause I of Art. LVII.

A request for a trial for confirmation mentioned in Description 2 of Clause I may be made only by an interested party.

ART. LXXXV. A request for a trial for invalidation mentioned in Description 1 of Clause I of the preceding Article may not be made after the lapse of five years from the date of a patent granted or of the registration of a permission mentioned in Art. LIII.

As for the request for a trial for invalidation on the ground that the patent comes under Description 5 of Clause I of Art. LVII, the period of time prescribed in the preceding clause is reckoned from the date following that on which it has come under the same description.

ART. LXXXVI. A request for a trial shall be made by presenting a document.

In such a document shall be inserted the definite statement of the request and reasons thereof.

ART. LXXXVII. In case the document for a trial is contrary to the forms prescribed in the Law or Ordinances, the presiding judge shall order the amendment of its defects within the due period of time fixed. The case shall be the same, when the fee prescribed for the request is not paid in.

When the defects in the document are not amended by the plaintiff, the presiding judge shall, through his determination, reject the same document.

In the determination of the preceding clause, reasons thereof shall be mentioned.

Any person who is dissatisfied with the determination mentioned in Clause II may make an immediate complaint.

The provisions of the Code of Civil Procedure concerning the immediate complaint are applicable mutatis mutandis to that which is mentioned in the preceding clause.

A memorandum of complaint shall be presented together with the rejected document for a trial. (Amended by Law No. 47 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

ART. LXXXVIII. When the document for a trial has been filed, the presiding judge shall deliver the duplicate thereof to the defendant, and appoint a period of time in which an opportunity may be given to the latter for presenting an answer for it. When the answer has been filed, the same judge shall

deliver the duplicate thereof to the other party.

With reference to a trial, one of the parties concerned may be caused to present answers to the documents produced by the other party, or written interrogatories may be put to the party concerned, to which he may be caused to present statesments of his opinion in reply.

ART. LXXXVIII (2). In case the request for a trial be illegal, whose defects cannot be amended, it may be rejected through a judgment, without giving the other party an opportunity of presenting an answer thereof. (Added by Law No. 47 of the 4th year of Showa, and Enforced on October 1st of the same year, according to the Imperial Ordinance No. 289 of the same year.)

ART. LXXXIX. A trial is conducted by the consultation of three judges and decided by majority.

The position of the presiding judge shall be occupied by the senior judge.

The presiding judge shall conduct matters relating to the trial.

ART. XC. Judges are appointed by the President of the Patent Office for each trial.

When any of the judges is hindered from participating in the trial, the appointment of the judge shall be cancelled and his place shall be filled by another judge.

ART. XCI. A judge may be excluded in a trial of those cases which come under any of the following descriptions: (Amended by Law No. 47 of the 4th year of Showa, and Enforced on October 1st of the same year according to Imperial Ordinance No. 289 of the same year.)

1. When the judge, or one who is or was his wife, is or was one of the parties concerned, an intervener, or a protester against a patent being granted, with regard to the case in question.
2. When the judge is or was a blood-relative of the fourth degree of relationship, or a relative by affinity of the third degree of relationship to one of the parties concerned, an intervener, or a protester against a patent being granted, with regard to the case in question.
3. When the judge is the legal representative, supervisor, or guardian, of one of the parties concerned, or the head or a member of the same family with one of the said parties, or an intervener, or a protester against a patent being granted, with regard to the case in question.
4. When the judge has become a witness or an expert with regard to the case in question.
5. When the judge is or was the agent of one of the parties concerned, an intervener, or a protester against a patent being granted, with regard to the case in question.
6. When the judge has taken part, with regard to the case in question, in making decisions or judgements as an examiner or as a judge in the Patent Office, or as a judge in a Court of Law.
7. When the judge is directly interested in the case in question.

Art. XCII. When there are causes for exclusion, a party concerned or an intervener may make a motion for it. (Ditto)

Art. XCIII. When there are circumstances which prevent the judge from trying the case with justice, a party concerned, or an intervener may refuse the same judge.

The refusal of the judge may not be made by a party concerned or by an intervener, after the statement has been made for the case; the cases being excepted, when there was some cause for the refusal existing, but not known, or when there arose any cause for it since then. (Ditto)

Art. XCIV. The motion prescribed in the two preceding Articles shall be made in writing, giving the reasons thereof; while it may be done orally, provided that it is a case of oral examination.

The causes for exclusion or refusal shall be explained within three days after the motion was made, the case being the same with the exceptions prescribed in Clause II of the preceding Article. (Ditto)

Art. XCV. When a motion is made for exclusion or refusal of any judge, a determination shall be given through a trial.

The judge may not participate in a trial concerning his own exclusion or refusal, but may express his opinions about the case.

Reasons shall be given for the determination in accordance with the prescription of Clause I.

No motion of dissatisfaction may be made against the determination prescribed in Clause I. (Ditto)

Art. XCVI. When a motion is made for exclusion or

refusal of any judge, the legal procedure for the trial shall be suspended, until a determination is given about the motion, an action of urgent necessity being excepted. (Ditto)

ART. XCVII. A trial for invalidation, prescribed in Description 1 of Clause I of Art. LXXXIV, shall be held orally, while the presiding judge may conduct it with written documents, ex-officio, or in compliance with the request made for it.

All the trials, other than the trial prescribed in the preceding clause, may be held with written documents, while the presiding judge may conduct the trial orally, ex-officio, or in compliance with the request made for it.

The oral examination shall be open to the public; the cases being excepted, when it may disturb public interest or morals.

ART. XCVII (2). An interpreter may be employed in a trial.

Prescription of Art. CXXXIV of the Code of Civil Procedure may be applied mutatis mutandis to such interpreter. (Added by Law No. 47 of the 4th year of Showa, and Enforced on October 1st of the same year, according to the Imperial Ordinance No 289 of the same year.)

ART. XCVIII. An interested party may intervene in a trial, until the examination for it be closed.

ART. XCIX. A request for intervention shall be made with a document.

When the presiding judge has received the document for intervention, a duplicate copy shall be delivered to the parties concerned and interveners, so as to give them opportunity to

state their protests within the period designated.

When a request for intervention has been filed, its permission or refusal shall be determined through a trial.

The provisions made in Clauses III and IV of Art. XCV shall be applied mutatis mutandis to the determination based upon the provision of the preceding clause. (This clause amended by Law No. 47 of the 4th year of Showa, and Enforced on October 1st of the same year according to Imperial Ordinance No. 289 of the same year.)

ART. C. In a trial, evidences may be taken ex-officio or in compliance with the request of a party concerned.

The taking of evidence prescribed in the preceding clause may be entrusted to the Kusaibansho (local court) or a Government Office which performs the business of the Kusaibansho in the place where the business required is handled.

The provisions made in the Code of Civil Procedure relating to the taking of evidence are applicable mutatis mutandis to the taking of evidence prescribed in the two preceding clauses; provided that a judge may neither determine a fine, nor order an arrest, nor order a deposit of a security (The proviso given in this clause amended by Law No. 47 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

ART. CI. When a party concerned or an intervener does not carry out the procedure within the period prescribed or designated for it, nor appear on the day designated for it, the presiding judge may carry on the trial.

ART. CII. A request for trial may be withdrawn, until

the examination of the case comes to an end; provided that the other party's consent is required, after the written reply has been filed.

ART. CIII. The reasons either not produced or withdrawn by a party concerned or an intervener may be examined in a trial. In such a case an opportunity shall be given to either a party concerned or an intervener, for stating his opinion about the said reasons within the period designated.

ART. CIV. Judges may combine examinations or judgments relating to two or more than two trials, when either one or both of the parties concerned are identical.

In case a combination be made of examinations as prescribed in the preceding clause, judges may again separate those examinations or judgments.

ART. CV. Excepting cases where there are special provisions made, a trial shall close with a judgment.

In a judgment prescribed in the preceding clause, reasons thereof shall be given.

When a case is matured for a judgment, the presiding judge shall notify the close of its examination to the parties concerned and the interveners.

When it is necessary, the presiding judge may resume the examination of the case, in compliance with the request made for it, or ex-officio, even after notification has been made of the close of examination, as prescribed in the preceding clause.

A judgment shall be made within twenty days, from the date of notification sent out with regard to the end of the examination.

ART. CVI. In a trial prescribed in Art. XLIX, a judgment shall also be made with regard to the amount of compensation.

ART. CVII. The provision made in Art. LXXXII is applicable mutatis mutandis to a trial.

ART. CVIII. The provisions of Art. LXXII, Clauses I, II, IV and VI of Art. LXXIII, and Arts. LXXIV–LXXVII are applicable mutatis mutandis to the trial prescribed in Art. LIII.

The provisions of Arts. XCVIII, XCIX, and CIV are not applicable to the trial prescribed in the preceding clause.

ART. CIX. If a person, who has received a decision or a judgment for a trial, be dissatisfied with it, he may, within thirty days from the date on which such a decision or a judgment has been delivered to him, request a trial on appeal; provided that an exception is made of a judgment of the amount of compensation prescribed in Art. CVI, and of the amount of expenses prescribed in Clause I of Art. CXIX. (The proviso in this Article amended by Law No. 47 of the 4th year of Showa, and Enforced by Imperial Ordinance No. 289 on October 1st of the same year.)

ART. CX. The provisions of Arts. LXXXVI–CI, and of Arts. CIII-CVIII, are applicable mutatis mutandis to a trial on appeal; provided that the consultation of judges be conducted by three or five judges, and "a party concerned or an intervener" in Arts. XCII, XCIII, and CI, be a party concerned, an intervener, or a protester against a patent being granted. (Amended by Law No. 47 of the 4th year of Showa, and Enforced on October 1st by the Imperial Ordinance No. 289 of

the same year.)

Art. CX (2). In case an illegal request for a trial cannot be amended in its defects, it may be rejected through a judgment in a trial on appeal, without giving the defendant an opportunity for submitting the written replies. (Added by Law No. 47 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

Art. CX (3). A request for a trial on appeal may be withdrawn till the end of its examination. (Ditto)

Art. CX (4). The right to request a trial on appeal may be abandoned till the end of its examination.

When the right to request a trial on appeal is abandoned after the request has been made, the same request shall also be conclusively presumed as withdrawn. (Ditto)

Art. CXI. In a trial on appeal, reasons for requesting a trial may be changed, or new facts or evidences may be produced.

Art. CXI (2). Any proceeding taken in an examination or in a trial is also effective in a trial on appeal. (Added by Law No. 47 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

Art. CXII. In a trial on appeal a judgment shall be given concerning the case at issue.

Art. CXII (2). When any proceeding taken for a decision or a judgment in a trial is in contravention of the Law or Ordinances, judges for a trial on appeal may set aside the same decision or judgment. (Added by Law No. 47 of the 4th year of Showa, and Enforced on October 1st by Imperial

Ordinance No. 289 of the same year.)

ART. CXIII. The provision of Art. LXXII is applicable mutatis mutandis to those cases in which there are found, in the course of a trial on appeal concerning a decision for rejection, reasons for rejection different from those for decision.

The provisions of Arts. LXXIII–LXXIX are applicable mutatis mutandis to those cases in which the request for a decision for rejection is found reasonable through a trial on appeal; provided that a judgment be given, without making a further advertisement thereof, to an application for which a patent is to be granted and of which the advertisement has been made.

The provisions of the two preceding clauses are applicable mutatis mutandis to a trial on appeal concerning a judgment in which the permission prescribed in Art. LIII has not been given.

ART. CXIV. In case a decision, or a judgment given in a trial, be set aside in a trial on appeal, a judgment for putting the case concerned to another examination may be given in the trial on appeal concerning the decision, or a judgment for putting the case concerned to another trial may be given in the trial on appeal concerning the judgment.

In case a judgment prescribed in the preceding clause be given, those reasons which form the basis for setting aside the decision or the judgment shall bind the examiner or the judge concerning the case concerned. (Amended by Law No. 47 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

Art. CXV. If a person, for whose trial on appeal a judgement has been passed, be dissatisfied with it, he may bring action at the Supreme Court of Law within thirty days from the date on which he has been delivered of the judgment, only on the ground that the same judgment has been given in contravention of Laws or Ordinances.

With reference to actions and their trials prescribed in the preceding clause, the provisions made in the Code of Civil Procedure regarding appeals to the Supreme Court of Law and their trials are applicable mutatis mutandis, with the exception of those cases specially prescribed. (This clause amended by Law No. 47 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

The reasons which have formed the basis for the judgment of the Supreme Court of Law for setting aside a decision or a judgment shall bind the Patent Office in regard to the case concerned. (Ditto)

Art. CXV (2). The petitions for the appeals prescribed in Clause II of the preceding Article shall be submitted to the Supreme Court of Law.

The complaint against the determination of the judge or of the presiding judge given in a trial on appeal shall be made to the Supreme Court of Law. (Added by Law No. 47 of the 4th Year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

Art. CXVI. When any person who has received the notification, determination or judgment for the amount of compensation prescribed in Art. XV, XL or L, is dissatisfied with

the above mentioned amount, he may bring action against it in a Court of Law, within thirty days from the date of the delivery of the said notification, determination or judgment.

ART. CXVII. When registration has been made of a final judgment, or a judgment of the Supreme Court of Law, concerning the validity of a patent, or of the permission prescribed in Art. LIII, or concerning the limits of a patent-right, no person whatever may request an identical trial upon the basis of the same facts and evidences.

ART. CXVIII. When necessitated in a trial or in a trial on appeal, the same procedure may be suspended until the legal procedure of a civil or criminal action be concluded.

When necessitated in a civil or criminal action, a court of law may suspend its legal procedure until a judgment of the Patent Office become final or a judgment of the Supreme Court of Law be given, concerning a patent.

ART. CXIX. The incidence of costs of a trial, of a trial on appeal, or of an action brought at the Supreme Court of Law, is, ex-officio, determined by the judgment of the suit, with the exception of those cases specially prescribed, where the amount of the incidence may also be determined according to the nature of the suit.

When only the incidence of costs of a trial, of a trial on appeal, or of an action brought at the Supreme Court of Law, has been determined by a judgment of the Patent Office, by a judgment of the Supreme Court of Law, or by a determination of the Patent Office, the amount of those costs shall be, in compliance with the request, determined by the President of

the Patent Office.

With reference to the incidence and the amount of costs, provisions shall be made by Imperial Ordinances. (Amended by Law No. 47 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

ART. CXIX (2). As for an action entailing some costs in a trial or in a trial on appeal, prepayment of those costs may be ordered. (Added by Law No. 47 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

ART. CXX. A determination with reference to the amount of costs of a trial, of a trial on appeal, and of an action brought at the Supreme Court of Law, as well as a final determination and judgment of the Patent Office with reference to the amount of compensation prescribed in this Law, shall, with reference to their compulsory execution, be conclusively presumed to be titles of obligation prescribed in Description 1 of Art. CCCCCLIX of the Code of Civil Procedure, provided that authentic instruments possessing the power of execution be issued by an official of the Patent Office.

CHAPTER VI.—RE-TRIAL

ART. CXXI. Statements of dissatisfaction may be made, through the request for re-trial, of the final judgment given by the Patent Office or of a judgment given by the Supreme Court of Law with reference to the following trials, trials on appeal, or actions brought at the Supreme Court of Law. (Amended by Law 47

of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

1. Trials respecting the validity of patents or permissions prescribed in Art. LIII, the limits of patent-rights, or the acquisition of the right of working the patented inventions.
2. Trials on appeal against the judgments given in the trials of the preceding description.
3. Actions brought at the Supreme Court of Law against the judgments given in the trials on appeal of the preceding description.

The provision made in Art. CCCCXX of the Code of Civil Procedure is applicable mutatis mutandis to the request for re-trial.

Art. CXXII. Re-trial may be requested within thirty days from the date on which the party concerned found out any reason for dissatisfaction.

When the party concerned found out any reason for dissatisfaction, before the judgment of the Patent Office became final, or before the judgment of the Supreme Court of Law was passed, the period of time prescribed in the preceding clause is counted from the date following that on which the said judgment of the Patent Office became final, or the said judgment of the Supreme Court of Law was passed.

In case a re-trial is requested on the ground that in a trial, a trial on appeal, or an action brought at the Supreme Court of Law, the party concerned was not duly represented according to the provisions of Laws, the period of time prescribed in Clause I is counted from the date following that on which the

party concerned or its legal representative was made to know, through the delivery of the judgment of the Patent Office or through that of the judgment of the Supreme Court of Law.

No re-trial may be requested after three years from the date on which the judgment of the Patent Office became final, or the judgment of the Supreme Court of Law was passed.

When there acrose a reason for dissatisfaction after the judgment of the Patent Office became final, or after the judgment of the Supreme Court of Law was passed, the period of time prescribed in the preceding clause is counted from the date following that on which there arose the reason aforesaid. (Added by Law No. 47 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

The provisions made in Clauses I and IV are not applicable to the request for re-trial which is based on the ground that the judgment passed by the Patent Office or by the Supreme Court of Law, for which dissatisfaction is stated, conflicts, with the judgment of the Patent Office which became final beforehand, or with the judgment of the Supreme Court of Law which was passed beforehand. (Ditto)

ART. CXXIII. As for the request for a re-trial to be made in the course of a trial, of a trial on appeal, or of an action brought at the Supreme Court of Law, as well as of its subsequent proceedings, the provisions made for each respective stage of its instance are applicable mutatis mutandis, excepting those cases specified in this Chapter.

ART. CXXIV. The provisions made in Arts. CCCCXXI, CCCCXXII, and CCCCXXVI–CCCCXXVIII of the Code of

Civil Procedure are applicable mutatis mutandis to the re-trial to be made in the course of a trial, of a trial on appeal, or of an action brought at the Supreme Court of Law. (Amended by Law No. 47 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

ART. CXXV. In cases coming under any one of the following descriptions, the force of patent-right does not extend to the articles which are, bona fide, transported or imported, manufactured or acquired in the Empire, after the judgment of the Patent Office became final or the judgment of the Supreme Court of Law was passed, and before registration of the request for a re-trial was made.

1. When the patent-right which had been made invalid has been restored through a re-trial.
2. When, through a re-trial, a reverse judgment of the Patent Office became final or a reverse judgment of the Supreme Court of Law was passed, contrary to the judgment of the Patent Office which became already final, or to the judgment of the Supreme Court of Law which was already passed, as not falling under the limits of its patent-right.

ART. CXXVI. In cases coming under any one of the descriptions of the preceding Article, any person, who, after the judgment of the Patent Office became final or the judgment of the Supreme Court of Law was passed, and before the registration of the request for a re-trial was made, was engaged in business of working, or had an industrial equipment for working, bona fide, and in the Empire, the invention in question, shall have

the license of working the patented invention within such scope of the said invention as it forms by itself the object of the business.

The provision made in Clause II of Article LII is applicable mutatis mutandis to the cases mentioned in the preceding clause-

ART. CXXVII. In case, through a re-trial, a reverse judgment of the Patent Office became final, or a reverse judgment of the Supreme Court of Law was passed, contrary to the judgment of the Patent Office which became already final, or to the judgment of the Supreme Court of Law which was already passed, concerning the acquisition of the license, any person, who, before registration of the request for a re-trial was made, was engaged in business of working, or had an industrial equipment for working, bona fide, and in the Empire, the invention in question, shall have the license of working the patented invention within the scope of the former license.

The provisions made in Clause III of Art. XXXVIII and in Clause II of Art. LII are applicable mutatis mutandis to the cases mentioned in the preceding clause.

ART. CXXVIII. Provisions made for re-trial are applicable mutatis mutandis to the statement of a third party's dissatisfaction on the ground that the judgment of the Patent Office or of the Supreme Court of Law was passed, because of a complicity between the plaintiff and the defendant with the intention of fraudulently infringing upon the third party's right or interest.

In the case mentioned in the preceding clause, the plaintiff and the defendant are treated as joint defendants. (Amended by Law 47 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

CHAPTER VII.—PENAL PROVISIONS

ART. CXXIX. A person who comes under any one of the following descriptions is liable to penal servitude not exceeding five years, or to a fine not more than five thousand Yen:

1. A person who has infringed upon a patent right.
2. A person who has imported or transported articles which may infringe upon a patent-right.
3. A person who, in the case of a patent granted, had, before the patent was granted, infringed upon the right prescribed in Clause III of Art. LXXIII.
4. A person who, in the case of a patent granted, had, before the patent was granted, imported or transported articles which may infringe upon the right prescribed in Clause III of Art. LXXIII.

The offences mentioned in the preceding clause are tried on complaint.

ART. CXXX. A person who comes under any one of the following descriptions is liable to penal servitude not exceeding three years, or to a fine not more than three thousand Yen.

1. A person who has, by a fraudulent act, obtained a patent, or received a judgment either by the Patent Office or by a Court of Law.
2. A person who has placed on an unpatented article or its container, wrapper, etc., a patent-mark or an indication liable to be confused therewith.
3. A person who has sold or circulated an unpatented article, on which a patent-mark or an indication

liable to be confused therewith is placed on itself or on its container, wrapper, etc.

4. A person who, for the purpose of causing an unpatented article or anything manufactured by an unpatented process to be manufactured or used, or for the purpose of selling or circulating such an article, has, in an advertisement, sign-board, hand-bill, etc., indicated, that such an article or process is patented, or has made an indication liable to be confused therewith.

5. A person who, for the purpose of causing an unpatented process to be used, or for the purpose of selling or circulating it, has, in an advertisement, sign-board, hand-bill, etc., indicated, that it is patented, or has made an indication liable to be confused therewith.

ART. CXXXI. With reference to articles constituting the act mentioned in Clause I of Art. CXXIX or to those produced out of the same act, which are liable to confiscation as prescribed in Art. XIX of the Criminal Law, a judgment shall be pronounced for the confiscation and the delivery of the same article to the injured person, when there has been a request made by him before the pronouncement of a judgment by a Court of Law.

In case the articles prescribed in the preceding clause have been delivered to the injured person, he may demand a compensation to the extent of balancing the amount of damages with the price of those articles delivered.

ART. CXXXII. When a witness, an expert, or an interpreter, sworn according to Law, has made a false statement before the Patent Office, a Court of Law, or another Government Office which has received charge therefrom, he is liable to penal servitude more than three months and not exceeding ten years. (Amended by Law 47 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

When a person, who has committed an offence prescribed in the preceding clause, has made a confession before a decision or judgment of the case has been reached, the penalty may be reduced or remitted.

ART. CXXXIII. When a person, who is or has been employed in the Patent Office, fraudulently makes known or makes use of any knowledge acquired ex-officio concerning any invention whose application for a patent is pending, or of any secret relative to the business of the applicant for a patent, he is liable to a penal servitude not exceeding one year, or to a fine not more than one thousand Yen.

ART. CXXXIII (2). When a person, sworn according to the prescription of Clause II of Art. CCLXVII, or Art. CCCXXXVI of the Code of Civil Procedure, which is applicable mutatis mutandis to this law, has made a false statement before the Patent Office, he is liable to a fine not exceeding five hundred Yen. (Added by Law 47 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

ART. CXXXIV. When a person who has been summoned

by the Patent Office as witness, expert, or interpreter fails, without proper reasons, to comply with the summons, or to discharge such a duty, he is liable to a fine not more than five hundred Yen. (Amended by Law 47 of the 4th year of Showa, Clause II being cancelled by the same, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

ART. CXXXIV (2). When a person ordered by the Patent Office to present or produce documents and other matters concerning the taking of evidence, fails, without proper reasons, to comply with the order, he is liable to a fine not more than five hundred Yen. (Added by Law 47 of the 4th year of Showa, and Enforced on October 1st by Imperal Ordinance No. 289 of the same year.)

ART. CXXXIV (3). Prescriptions given in Arts. CCVI–CCVIII of the Law of Procedure for Noncontentious Matters are applicable mutatis mutandis to the fine prescribed in the preceding three Articles. (Ditto)

ART. CXXXV. A person, who not being a patent attorney, practises the business of such an agency for patent business in dealing with the Patent Office, is liable to penal servitude not exceeding one year, or to a fine not more than one thousand Yen.

SUPPLEMENTARY PROVISIONS

ART. CXXXVI. The date of operation of this Law is determined by Imperial Ordinance. (Enforced on Jan. 11th of the 11th year of Taisho by Imperial Ordinance No. 459 of the 10th year of Taisho.)

ART. CXXXVII. Patents, permissions for revision or division of patent-rights, and treatments or proceedings, based upon the former Law, are conclusively presumed to have been made under this Law, unless otherwise prescribed in these supplementary provisions.

The case shall be the same with an application, a request, or any other proceedings taken under the former Law in relation to patents.

ART. CXXXVIII. Applications for patents or for permissions of revision or division of the patent-rights, which are pending still at the time of operation of this Law, are treated according to the former Law. When the invention, whose patent was applied for, conflicts, however, with the invention, whose patent is applied for according to this Law, a person who invented the former is conclusively presumed to have done so prior to the latter.

Any dissatisfaction with the judgment of the Patent Office, delivered prior to the enforcement of this Law, may be stated during the period specified by the former Law. The same shall be true of the period for statement of the dissatisfaction with the amount of compensation to be made according to the former Law.

ART. CXXXIX. When, as a result of experiments thereof, a person entitled to be granted with a patent has made his invention to fall under any one of the descriptions of Art. IV, the same invention is conclusively presumed to be new ; provided that the application for a patent therefor be filed not later than two years from the date of that accident, and within six months

from the date of operation of this Law.

Even if, contrary to the intention of a person entitled to be granted with a patent, the same invention fall, before the operation of this Law, under any one of the discriptions of Art. IV, the prescription given in Clause II of Art. V is not applicable to it.

Art. CXL. The right of use recognized under the former Law is conclusively presumed to be the right of working prescribed in Art. XLVIII or XLIX.

Art. CXLI. With reference to patent-rights which have come into existence before the date of operation of this Law, the provision made in Description 2 of Art. XXIX of the former Law is still in force, but the provision of Art. XXXVII is not applicable to them.

Art. CXLII. In case patents have become invalid in the course of the operation of the former Law, the provisions made in Arts. XXXV–XXXVII of the former Law, and the provision of Art. XXXIII of the former Law which is applicable mutatis mutandis under the provision of Art. XXXVI of the former Law, are still in force, but the provision of Art. XXXVIII is not applicable to them.

In case patents have become invalid prior to the operation of the former Law, the provision of Art. XXXVIII is not applicable to them.

Art. CXLIII. With reference to the rights of working which have come into existence prior to the operation of the former Law, the provision made in Clause II of Art. LI is not applicable to them. Such rights are treated as heretofore.

ART. CXLIV. With reference to the period of duration of the patent-rights granted under the former Law, the former Law is still in force.

The case shall be the same with the patent-fee and the additional patent-fee already paid in before the operation of this Law or with those in arrears.

ART. CXLV. When defaulted, patent-fee or additional patent-fee may be paid in as arrears within six months, counting from the date of the operation of this Law, if the patent or the additional patent be not yet cancelled at the time of the operation of this Law. In such a case, an amount of money to be paid in as patent-fee or additional patent-fee shall be double the sum of patent-fee or additional patent-fee prescribed under the former Law.

When patent-fee or additional patent-fee is not paid in as arrears within the period prescribed in the preceding clause, the patent-right or the additional patent-right is conclusively presumed to have expired at the time of operation of this Law.

ART. CXLVI. With reference to the patents granted under the former Law, or to the permissions for revision or division of the patent-rights based upon the former Law, the prescription made in Art. XLIX of the former Law is still in force, even when patents or permissions have been granted after the enforcement of this Law; and so far as the application of the prescription of the same Article is concerned, the prescriptions of the former Law contained in the same Article are still in force; consequently those patents or permissions only may be rendered invalid through a trial, which come under any one of

the descriptions mentioned in Clause I of the same article.

ART. CXLVII. With reference to the patents or permissions registered before the operation of this Law, no trial for invalidation prescribed in the preceding Article may be requested after the lapse of five years from the first day of operation of this Law.

SUPPLEMENTARY PROVISIONS

(Law No. 47 of the 4th year of Showa.)

The date of operation of this Law is determined by Imperial Ordinance. (Enforced on October 1st of the 4th year of Showa by Imperial Ordinance No. 289 of the same year.)

This Law is applicable also to the matters which have come into existence before the date of its operation, but does not at all conflict with any effect accruing from the former provisions.

The revised provision made in Art. XVII (2) is also applicable to the mandatory agency which has produced causes mentioned in the same article, before the date of operation of this Law, and whose power of attorney was neither registered nor notified of its lapse before the date of its operation.

A person, to whose case of complaint a determination was given before the operation of this Law, may still make a complaint, according to the former provisions.

With reference to a proceeding whose period has been newly prescribed according to this Law, and which is to be performed upon the operation of this Law, the same period shall be reckoned from the date of operation of this Law.

With reference to one whose actions are liable to be punished with a fine, according to the provisions in force before the operation of this Law, and whose case has not yet been sentenced, at the time when this Law began its operation, he shall be punished, only so far as the case is concerned which is to be fined according to this Law ; provided that the amount of the fine may not exceed what has been stated in the former provisions.

THE UTILITY-MODEL LAW

(Amended by Law No. 48 of April 4th of the 4th year of Showa.)

ART. I. Any person who has made, in connection with the shape, construction, or arrangement adopted for an article, a new and useful industrial device of a model, may obtain the registration of a utility-model, respecting the said article.

ART. II. With reference to the following utility-models, no registration shall be granted:

1. That which has a form identical with, or similar to, the Imperial Chrysanthemum Crest.
2. That which is liable to disturb public order or morals, or to be injurious to health.

ART. III. Utility-models termed "new" in the application of this Law are those which do not come under any of the following descriptions:

1. Those which have been publicly known or used in the Empire prior to the application for registration, or those similar thereto.
2. Those which have been described in publications distributed in the Empire, prior to the application for registration, in such a degree that the description can be easily worked out; or those similar thereto.

ART. IV. For the identical or similar utility-models, registration shall be granted only to the first applicant; provided

that, when there are different applicants of the same date, registration shall be granted through their agreement, and when no agreement is reached, no registration shall be granted.

ART. V. When the applicant for patent of an invention or the applicant for registration of a design has changed the application for a patent of invention or that for registration of a design into an application for registration of a utility-model, the same application for registration of a utility-model is conclusively presumed to have been filed on the date of application made for the patent of an invention or for the registration of a design; provided that thirty days have not elapsed from the date of the first decision delivered, for the application for patent of invention or for registration of a design, to the effect that the patent or the registration applied for shall not be granted.

ART. VI. A utility-model right comes into existence by virtue of registration.

The owner of a utility-model right shall have the exclusive right of manufacturing, using, selling, or circulating, as a business, any article connected with his own registered utility-model.

In case a utility-model right conflicts with a patent-right or a design-right, the application for which has been made prior to the date of its own application, or in case a registered utility-model utilizes a patented invention or a registered design, the application for which has been made prior to the date of its own application, the owner of a utility-model right may not work the registered utility-model, unless the owner of the

same patent-right or the same design-right gives the permission for its being worked.

ART. VII. Any person, who, at the time of application for registration of a utility-model, is engaged in business of working, or has an industrial equipment for working, actually, bona fide, and in the Empire, the said utility-model, shall have the license of working the same utility-model to be registered within such scope of the said utility-model as it forms by itself the object of the business.

ART. VIII. Any person who, before the registration of a suit for invalidating a registration, was engaged in business of working or had an industrial equipment for working, bona fide, in the Empire, and under any of the following descriptions, the utility-model in the said suit, shall have the license of working the registered utility-model within such scope of the said utility-model as it forms by itself the object of the business:

1. A former owner of a utility-model right registered as such, in case one out of the two or more registrations granted for the identical or similar utility-model has been invalidated.
2. A former owner of a utility-model right registered as such, in case the same registration has been declared void and the identical or similar utility-model has been registered for its rightful owner.
3. One who has obtained the license of working the utility-model and has been registered thereof, in case his utility-model right has been invalidated as mentioned in the two preceding descriptions. In

case, however, the same license is in force as mentioned in Clause I of Art. XIII, no registration shall be required, though it is not yet registered.

In case the term expires for the duration of a patent-right or a design-right conflicting with the utility-model right in question, whose application has been filed prior to or on the day of application for registration of the identical utility-model, the licensee registered for working the same patent-right or design-right, shall be entitled to work the registered utility-model within the scope of the former license. In case the former license is in force as mentioned in Clause I of Art. LII of the Patent Law or in Clause I of Art. XV of the Design Law, no registration shall be required, though it is not yet registered.

The owner of the utility-model right is entitled to obtain an adequate compensation from the same licensee, as prescribed in the two preceding clauses.

ART. IX. After the expiration of the term for duration of a patent-right or of a design-right conflicting with the utility-model right in question, whose application has been filed prior to or on the day of application for registration of the same utility-model, the former owner of the patent-right or of the design-right shall have the license of working the registered utility-model within the scope of the former right.

ART. X. The period of duration of a utility-model right is ten years from the date of its registration.

When registration has been made for its rightful owner according to the provision of Art. XI of the Patent Law which is applicable mutatis mutandis based upon Art. XXVI, the

period of ten years mentioned in the preceding clause shall be reckoned from the day following that of the registration invalidated.

ART. XI. In cases where the owner of a utility-model right cannot work his own registered utility-model, unless a registered utility-model or a registered design of another person can be worked, such owner of the same right may request a trial, when the other person refuses, without proper reasons, to permit the working thereof, or when it is impossible to obtain such permission from the same person; provided that two years have elapsed since the date on which the right of the same utility-model or of the same design to be worked came into existence.

In case a person, whose registered utility-model or registered design is to be worked according to the provision of the preceding clause, has requested the other party to permit the working of its registered utility-model necessary to be worked, a trial may be requested, when the same other party refuses, without proper reasons, to permit the working thereof, or when it is impossible to obtain such permission from the same other party.

ART. XII. The licensee, prescribed in the preceding Article, shall pay to the owner of a utility-model right or a design-right an adequate compensation.

Unless the licensee mentioned in the preceding clause has paid in such compensation, or has made a deposit of an equivalent sum of money when it is impossible to be paid, the said registered utility-model or the said registered design may not

be worked. When, however, a deposit of money has been made corresponding in its amount to that of the compensation prescribed in the judgment of the Patent Office or of a Court of Law, the said utility-model or design may be worked, even before the above-mentioned judgment becomes final.

ART. XIII. When it is registered, the license of working a registered utility-model becomes valid vis-a-vis those persons who have subsequently acquired such utility-model right or who have acquired a right of mortgage subsequently established with such utility-model right as its object.

Even in case it is not registered, the license prescribed in Arts. VII–IX or prescribed in Clause II of Art. XIV of the Patent Law which is applicable mutatis mutandis according to the prescription of Art. XXVI is in such force as mentioned in the preceding clause.

The license prescribed in Art. XI becomes valid vis-a-vis those persons who have a right of mortgage established before its registration.

The provision made in Art. XLV of the Patent Law may be applied mutatis mutandis to the transference, alteration, expiration, or limitation of disposal, of the license, or to the establishment, transference, alteration, expiration, or limitation of disposal, of the right of mortgage which has the license as its object

ART. XIV. When the owner of a utility-model right has discovered that the specification or drawings of the registered utility-model have been imperfectly prepared, a trial for permission to amend the said specification or drawings may be

requested, so far as it has any of the following descriptions as its object:

1. Reduction of the extent of the claims of registration.
2. Correction of clerical errors.
3. Explanation of indefinite descriptions.

In the case of Description I of the preceding clause, the part remaining must constitute by itself a novel and independent utility-model at the time of its application for registration.

ART. XV. So far as the preceding Article is concerned, the extent of the claims of registration shall not be materially enlarged or altered.

ART. XVI. Registration shall be rendered invalid through a trial, when it falls under any one of the following descriptions:

1. When registration has been made in contravention of the provision of Art. I, II or IV.
2. When registration has been made in contravention of the provision of Art. XXXII of the Patent Law, which is applicable mutatis mutandis according to Art. XXVI.
3. When registration has been made for a person who is not the successor of the right of obtaining it, or who has made an unauthorized assumption of the same right.
4. When, in case registration has been made in contravention of the treaty or anything corresponding to it, prescribed in Art. XXXIII of the Patent Law

which is applicable mutatis mutandis according to the provision of Art. XXVI, such contravention is something corresponding to what is mentioned in Descriptions 1–3 of this Article.

5. When registration has been made later on to contravene the provision of Art. XXXII of the Patent Law, which is applicable mutatis mutandis according to Art. XXVI, or when, in case it has been made later on to contravene the treaty or anything corresponding to it, prescribed in Art. XXXIII of the Patent Law, such contravention is something corresponding to what is mentioned in Descriptions 1–3 of this Article.

Permissions mentioned in Art. XIV shall be rendered invalid through a trial, when it contravenes the provision made in Clause II of the same Article or that of the preceding Article.

Registration or permission mentioned in Art. XIV shall be rendered invalid by the provisions made in the two preceding clauses, even after the expiration of a utility-model right.

Art. XVII. There shall be kept at the Patent Office a Utility-Model Register, in which shall be entered the establishments, maintenances, transferences, alterations, expirations, and limitations of disposal, of utility-model rights, of licenses of working utility-model rights, and of rights of mortgages which have the above-mentioned rights as their objects, besides other particulars prescribed by Laws or Ordinances.

Regulations regarding registration are determined by

Ordinances.

ART. XVIII. When a decision or a judgment by the Patent Office has become final, or when a judgment by the Supreme Court of Law has been passed, to the effect that a registration shall be made, it shall be entered in the Utility-Model Register and a Utility-Model Registration Certificate shall be issued. The same provision is applicable, when the judgment by the Patent Office for the permission prescribed in Art. XIV has become final, or the judgment by the Supreme Court of Law has been passed for it.

ART. XIX. The Patent Office shall publish the Utility-Model Journal, in which shall be stated necessary particulars relating to any registered utility-model, excepting those registered utility-models which require secrecy for military reasons.

ART. XX. A person who obtains registration of a utility-model, or an owner of a registration-certificate, shall pay, as Registration-Fee, for each case, the following amount:

1. For the period from 1st year to 3rd year, inclusive, annually, seven Yen.
2. From 4th year to 6th year, inclusive, annually, fifteen Yen.
3. From 7th year to 10th year, inclusive, annually, twenty-five Yen.

ART. XXI. When an application for registration of a utility-model has been filed, an examiner is caused to examine it.

ART. XXII. A trial may be requested regarding the following matters, in addition to those prescribed in this Law or in Imperial Ordinances issued under this Law:

1. Invalidation of registration or permission under the provision of Art. XVI.
2. Confirmation of the limits of a utility-model right.

A request for a trial for the invalidation mentioned in Description 1 of the preceding clause may be made only by an interested party or an examiner. An examiner may not, however, make a request for a trial for invalidation, on the ground that the registration contravenes the provision of Art. IV, or that it comes under Description 3 of Clause I of Art. XVI.

A request for a trial for the confirmation mentioned in Description 2 of Clause I may be made only by an interested party.

ART. XXIII. A trial for the invalidation mentioned in Description 1 of Clause I of the preceding Article may not be made, after the lapse of three years from the date of registration of a utility-model or of a permission mentioned in Art. XIV.

As for the request for a trial for the invalidation based on the ground that the case comes under Description 5 of Clause 1 of Art. XVI, the period of time prescribed in the preceding clause is reckoned from the date following that on which the case has come under the same description.

ART. XXIV. In a trial mentioned in Art. XI, a judgment shall be made also with regard to the amount of compensation.

ART. XXV. If dissatisfied with a decision or with a judgment given for a trial, a person may, within thirty days from the date on which he has been delivered of such a decision or a judgment, request a trial on appeal, with the exception,

however, of a judgment of the amount to be paid in compensation as prescribed in the preceding Article, and of that of the expenses as prescribed in Clause I of Article CXIX of the Patent Law which is applicable mutatis mutandis, based upon the provision of Art. XXVI. (The proviso in this Article amended by Law No. 48 of the 4th year of Showa, and Enforced on October 1st of the same year by Imperial Ordinance No. 289 of the same year.)

ART. XXVI. The provisions made in Arts. VI, X–XXXIII, XXXVI, XL, XLIV, XLV, XLVII, XLVIII, LI, LV, LVI, LVIII, LIX, LXIV, Clauses VI and VII of Art. LXV, Arts. LXVI–LXIX. LXXI–LXXXIII, LXXXVI–CV, CVII, CVIII, and CX–CXXVIII of the Patent Law are applicable mutatis mutandis to utility-models.

ART. XXVII. A person who comes under any one of the following descriptions is liable to penal servitude not exceeding three years, or to a fine not more than three thousand Yen:

1. A person who has, as a business, manufactured, used, sold or circulated any article which is identical to those registered as utility-models by another person.
2. A person who has, as a business, manufactured, used, sold or circulated any article which is similar to those registered as utility-models by another person.
3. A person who has, as a business, imported or transported any article identical or similar to those registered as utility-models by another person.

The offences mentioned in the preceding clause is tried on complaint.

ART. XXVIII. A person who comes under any one of the following descriptions is liable to penal servitude not exceeding one year, or to a fine not more than one thousand Yen:

1. A person who has, by a fraudulent act, obtained registration of a utility-model, or received a judgment either by the Patent Office or by a Court of Law.
2. A person who has placed on an article which is unregistered as a utility-model or on its container, wrapper, etc., a utility-model-registration-mark or an indication liable to be confused therewith.
3. A person who has sold or circulated an article which is unregistered as a utility-model, but has placed on itself or on its container, wrapper, etc., a utility-model-registration-mark or an indication liable to be confused therewith.
4. A person who, for the purpose of causing an article unregistered as a utility-model to be manufactured or used, or for the purpose of selling or circulating such an article, has, in an advertisement, sign-board, handbill, etc., indicated that such an article is a registered utility-model, or has made an indication liable to be confused therewith.

ART. XXIX. With reference to articles constituting the act mentioned in Clause I of Art. XXVII or those produced out of the same act, which are liable to confiscation as prescribed in Art. XIX of the Criminal Law, a judgment shall be pronounced for the confiscation and the delivery of the same

article to the injured person, when there has been a request made by him before the pronouncement of a judgment by a Court of Law.

In case the articles prescribed in the preceding clause have been delivered to the injured person, he may demand a compensation to the extent of balancing the amount of damages with the price of those articles.

ART. XXX. When a witness, an expert, or an interpreter, sworn according to Law, has made a false statement before the Patent Office, a Court of Law, or another Government Office which has received charge therefrom, he is liable to penal servitude more than three months and not exceeding ten years. (Amended by Law 48 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

When a person, who has committed an offence prescribed in the preceding clause, has made a confession before a decision or judgment of the case has been reached, the penalty may be reduced or remitted.

ART. XXXI. When a person, who is or has been employed in the Patent Office, fraudulently makes known or makes use of any knowledge acquired ex-officio concerning any device, whose application for registration as a utility-model is pending, or of any secret relative to the business of the applicant for registration as a utility-model, he is liable to a penal servitude not exceeding one year, or to a fine not more than one thousand Yen.

ART. XXXI (2). When a person, sworn according to the

prescription of Clause II of Art. CCLXVII or Art. CCCXXXVI of the Code of Civil Procedure, which is applicable mutatis mutandis according to the provision of Art. XXVI, has made a false statement before the Patent Office, he is liable to a fine not more than five hundred Yen. (Added by Law 48 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

ART. XXXII. When a person who has been summoned by the Patent Office as witness, expert, or interpreter fails, without proper reasons, to comply with the summons, or to discharge such a duty, he is liable to a fine not more than five hundred Yen. (Amended by Law 48 of the 4th year of Showa, Clause II being cancelled by the same, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

ART. XXXII (2). When a person, ordered by the Patent Office to present or produce documents and other matters concerning the taking of evidence, fails, without proper reasons, to comply with the order, he is liable to a fine not more than five hundred Yen. (Added by Law 48 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

ART. XXXII (3). Prescriptions given in Arts. CCVI–CCVIII of the Law of Procedure for Noncontentious Matters are applicable mutatis mutandis to the fine prescribed in the preceding three Articles. (Ditto)

ART. XXXIII. A person, who not being a patent attorney, practises the business of such an agency for utility-model business in dealing with the Patent Office, is liable to penal

servitude not exceeding one year, or to a fine not more than one thousand Yen.

SUPPLEMENTARY PROVISIONS

ART. XXXIV. The date of operation of this Law is determined by Imperial Ordinance. (Enforced on Jan. 11th of the 11th year of Taisho by Imperial Ordinance No. 459 of the 10th year of Taisho.)

ART. XXXV. So far as those are concerned which have been based upon the former Law, registrations of utility-models and treatments or proceedings are conclusively presumed to have been made under this Law, unless otherwise prescribed in these supplementary provisions.

The case shall be the same with an application, a request, or any other proceedings taken under the former Law in relation to utility-models.

ART. XXXVI. The application for registration of utility-models still pending at the time of operation of this Law is treated according to the former Law.

Any dissatisfaction with the judgment of the Patent Office delivered prior to the enforcement of this Law may be stated during the period specified by the former Law. The same shall be true of the period for statement of the dissatisfaction with the amount of compensation to be made according to the former Law.

ART. XXXVII. With reference to utility-model rights which have come into existence before the date of operation of this Law, the provision made in Description 2 of Art.

XXIX of the former Patent Law is still in force and applicable mutatis mutandis, but the provision of Art. VII is not applicable to them.

Art. XXXVIII. With reference to registrations of utility-models which have become invalid in the course of operation of the former Law, the provision made in Art. X of the former Law, and the provisions of the former Patent Law, which are applicable mutatis mutandis under the provision of the same Article, are still in force, but the provision of Art. VIII is not applicable to them.

Art. XXXIX. With reference to registrations of utility-models based upon the former Law, the prescription made in Art. XI of the former Law is still in force, even when registration has been entered after the enforcement of this Law; and so far as the application of the prescription of the same Article is concerned, the prescriptions of the former Law contained in the same Article are still in force; consequently those registrations only may be rendered invalid through a trial, which come under the prescription made in the same Article.

Art. XL. With reference to registrations of utility-models entered before the operation of this Law, no trial for invalidation prescribed in the preceding Article may be requested after the lapse of three years from the first day of operation of this Law.

SUPPLEMENTARY PROVISIONS

(Law No. 48 of the 4th year of Showa.)

The date of operation of this Law is determined by Im-

perial Ordinance (Enforced on October 1st of the 4th year of Showa by Imperial Ordinance No. 289 of the same year.)

This Law is applicable also to the matters which have come into existence before the date of its operation, but does not at all conflict with any effect accruing from the former provisions.

The revised provision made in Art. XVII (2) of the Patent Law, which is applicable mutatis mutandis based upon the prescription of Art. XXVI, is also applicable to the mandatory agency which has produced causes mentioned in the same Article before the date of operation of this Law, and whose power of attorney was neither registered nor notified of its lapse before the date of its operation.

A person, to whose case of complaint a determination was given before the operation of this Law, may still make a complaint according to the former provisions.

With reference to a proceeding whose period has been newly provided according to this Law, and which is to be performed upon the operation of this Law, the same period shall be reckoned from the date of operation of this Law.

With reference to one whose actions are liable to be punished with a fine, according to the provisions in force before the operation of this Law, and whose case has not yet been sentenced at the time when this Law began its operation, he shall be punished, only so far as the case is concerned which is to be fined according to this Law; provided that the amount of the fine may not exceed what has been stated in the former provisions.

THE DESIGN LAW

ART. I. Any person who has made, for an article, a new industrial device of a design concerning the shape, pattern, coloring, or their combination, may obtain the registration of the design, respecting the said article.

ART. II. With reference to the following designs, registration is not granted:

1. Those which have forms or patterns, identical with or similar to the Imperial Chrysanthemum Crest.
2. Those which are liable to disturb public order or morals.
3. Those which are liable to deceive the public.

ART. III. Designs termed "new" in the application of this Law are those which do not come under any one of the following descriptions:

1. Those which have been publicly known or used in the Empire prior to the application for registration, or those similar thereto.
2. Those which have been described in printed publications distributed in the Empire, prior to the application for registration, in such a degree that the description can be easily worked out; or those similar thereto.

Any design similar only to a registered design belonging to one's self is conclusively presumed to be new.

ART. IV. For the identical or similar designs, registration shall be granted only to the first applicant; provided that,

when there are different applicants of the same date, registration shall be granted through their agreement, and when no agreement is reached, no registration shall be granted.

ART. V. Any applicant for registration of a design shall designate, out of the classification determined by Ordinance, the article representing the same design.

ART. VI. Any applicant for registration of a design may request that the same design shall be kept secret for a period not exceeding three years from the date of registration.

ART. VII. When the applicant for registration of a utility-model has changed the application for a utility-model into an application for registration of a design concerning the design referred to in the same application, such application for registration of a design is conclusively presumed to have been filed on the date of application made for the registration of a utility-model; provided that thirty days have not elapsed from the date of the first decision delivered to the application for registration of a utility-model, to the effect that the registration applied for shall not be granted.

ART. VIII. A design-right comes into existence by virtue of registration.

The owner of a design-right shall have the exclusive right of manufacturing, using, selling, or circulating, as a business, any article representing his own registered design.

The design-rights of designs similar to one's own registered designs shall be incorporated into the design-right which came first into existence.

In case a design-right conflicts with a utility-model right

or a trade-mark right, the application for which has been made prior to the date of its own application, or in case a registered design utilizes a registered utility-model, the application for which has been made prior to the date of its own application, the owner of a design-right may not work the said registered design, unless the owner of the said utility-model right or of the said trade-mark right gives the permission thereof.

ART. IX. Any person, who, at the time of application for registration of a design, is engaged in business of working or has an industrial equipment for working, actually, bona fide, and in the Empire, the said design, shall have the license of working the same design to be registered, within such scope of the said design as it forms by itself the object of the business.

ART. X. Any person, who, before the registration of a suit for invalidating a registration, was engaged in business of working or had an industrial equipment for working, bona fide, in the Empire, and under any of the following descriptions, the design in the said suit, shall have the license of working the registered design, within such scope of the said design as it forms by itself the object of the business.

1. A former owner of a design-right registered as such, in case one out of the two or more registrations granted for the identical or similar design has been invalidated.
2. A former owner of a design-right registered as such, in case the registration has been declared void and the identical or similar design has been regis-

tered for its rightful owner.

3. One who has obtained the license of working the design and has been registered thereof, in case the design-right has been invalidated as mentioned in the two preceding descriptions. In case, however, the same license is in force as mentioned in Clause I of Art. XV, no registration shall be required, though it is not yet registered.

In case the term expires for duration of a utility-model right conflicting with the design-right in question, whose application has been filed prior to or on the day of application for registration of the same design, the licensee registered for working the same utility-model right shall be entitled to work the registered design within the scope of the former license. In case, however, the former license is in force as mentioned in Clause I of Art. XIII of the Utility-Model Law, no registration shall be required, though it is not yet registered.

The owner of the design-right is entitled to obtain an adequate compensation from the licensee prescribed in the two preceding clauses.

ART. XI. After the expiration of the term for duration of a utility-model right conflicting with the design-right in question, whose application has been filed prior to or on the day of application for registration of the same design, the former owner of the utility-model right shall have the license of working the registered design within the scope of the said former right.

ART. XII. The period of duration of a design-right is ten years from the date of registration.

When registration has been made for the rightful owner according to the provision of Art. XI of the Patent Law, which is applicable mutatis mutandis based upon Art. XXV, the period of ten years mentioned in the preceding clause shall be reckoned from the day following that of the registration invalidated.

ART. XIII. In cases where the owner of a design-right cannot work his own registered design, unless a registered utility-model or a registered design of another person can be used, such owner of the same right may request a trial, when the other person refuses, without proper reasons, to permit the working thereof, or when it is impossible to obtain such permission from the same; provided that two years have elapsed since the date on which the right of the same utility-model or of the same design to be worked came into existence.

In case a person, whose registered utility-model or registered design is to be worked according to the provision of the preceding clause, has requested the other person to permit the working of its registered design necessary to be worked, a trial may be requested, when the same other party refuses, without proper reasons, to permit the working thereof, or when it is impossible to obtain such permission from the same other party.

ART. XIV. The licensee, prescribed in the preceding Article, shall pay to the owner of a utility-model right or a design-right an adequate compensation.

Unless the licensee mentioned in the preceding clause has

paid in such compensation, or has made a deposit of money when it is impossible to be paid, the said registered utility-model or the said registered design may not be worked. When, however, a deposit of money has been made corresponding in its amount to that of the compensation prescribed in the judgment of the Patent Office or of a Court of Law, the said utility-model or design may be worked, even before the above-mentioned judgment becomes final.

ART. XV. When it is registered, the license of working the registered design becomes valid vis-à-vis those persons who have subsequently acquired such design-right or who have acquired a right of mortgage subsequently established with such design-right as its object.

Even in case it is not registered, the license prescribed in Arts. IX-XI or prescribed in Clause II of Art. XIV of the Patent Law, which is applicable mutatis mutandis according to the prescription of Art. XXV, is in such force as prescribed in the preceding clause.

The license prescribed in Art. XIII becomes valid vis-à-vis those persons who have a right of mortgage established before its registration.

The provision made in Art. XLV of the Patent Law may be applied mutatis mutandis to the transference, alteration, expiration, or limitation of disposal, of the license, or to the establishment, transference, alteration, expiration, or limitation of disposal of the right of mortgage which has the license as its object.

ART. XVI. Design-right may be transfered by division, so

far as those articles which are designated according to the prescription of Art. V are concerned.

ART. XVII. Registration shall be rendered invalid through a trial, when it falls under any of the following descriptions:

1. When registration has been made in contravention of the provision of Arts. I, II, or IV.
2. When registration has been made in contravention of the provision of Art. XXXII of the Patent Law, which is applicable mutatis mutandis based upon Art. XXV.
3. When registration has been made for a person who is not the successor of the right of obtaining it, or who has made an unauthorized assumption of the same right.
4. When, in case registration has been made in contravention of the treaty or anything corresponding to it prescribed in Art. XXXIII of the Patent Law, which is applicable mutatis mutandis according to the provision of Art. XXV, such contravention is something corresponding to what is mentioned in Descriptions 1–3.
5. When registration has been made later on to contravene the provision of Art. XXXII of the Patent Law, which is applicable mutatis mutandis according to Art. XXV, or when, in case it has been made later on to contravene the treaty or anything corresponding to it prescribed in Art. XXXIII of the Patent Law, such contravention is something

corresponding to what is mentioned in Descriptions 1–3.

Registration shall be rendered invalid by the provisions made in the preceding clause, even after the expiration of a design-right.

ART. XVIII. There shall be kept at the Patent Office a Register of Designs, in which shall be entered the establishments, maintenances, expirations, and limitations of disposal, of design-rights, of licenses of working registered designs, and of rights of mortgage which have the above-mentioned rights as their objects, besides other particulars prescribed by Laws or Ordinances.

Regulations regarding registration are determined by Ordinances.

ART. XIX. When a decision or a judgment of the Patent Office has become final, or when a judgment of the Supreme Court of Law has been passed, to the effect that a registration shall be made, it shall be entered in the Register of Designs, and a Design-Registration-Certificate shall be issued.

ART. XX. A person who obtains registration of a design or an owner of a Design-Registration-Certificate shall pay as Registration-Fee, for each case, the following amount:

1. For the period from 1st year to 3rd year inclusive, annually, three Yen.
2. From 4th year to 10th year, annually, five Yen.

A person who obtains registration of a design which is similar to his own registered design shall pay for each case

three Yen at one time as Registration-Fee.

A person who obtains registration of a design-right to be transfered by division according to the provision of Art. XVI, or an owner of such Design-Registration-Certificate shall pay the Registration-Fee beginning with what is due to the year specified for the original design-right, and following.

Art. XXI. When an application for registration of a design has been filed, an examiner is caused to examine it.

Art. XXII. A trial may be requested regarding the following matters, in addition to those prescribed in this Law or in Imperial Ordinances issued under this Law:

1. Invalidation of registration under the provision of Art. XVII.
2. Confirmation of the limits of a design-right.

A request for a trial for the invalidation mentioned in Description 1 of the preceding clause may be made only by an interested party or an examiner. An examiner may not, however, make a request for a trial for invalidation, on the ground that the registration contravenes the provision of Art. IV, or that it comes under Description 3 of Clause I of Art. XVII.

A request for a trial for the confirmation mentioned in Description 2 of Clause I may be made only by an interested party.

Art. XXIII. In the trial prescribed in Art. XIII a judgment shall be made also with regard to the amount of compensation.

Art. XXIV. If dissatisfied with a decision, or with a judgment for a trial, a person may, within thirty days from

the date on which he has been delivered of such a decision or a judgment, request a trial on appeal, with the exception, however, of a judgment of the amount of compensation prescribed in the preceding Article, and that of the expenses prescribed in Clause I of Art. CXIX of the Patent Law, which is applicable mutatis mutandis according to the prescription of Art. XXV. (Amended by Law No. 49 of the 4th year of Showa, and Enforced by Imperial Ordinance No. 289 on October 1st of the same year.)

ART. XXV. The prescriptions made in Arts. VI, X–XIV, XVI–XXX, XXXII, XXXIII, XXXVI, XLIV, XLV, XLVII, XLVIII, LI, LV, LVI, Clause I of Art. LVIII, Arts. LIX, LXIV, Clauses VI & VII of Art. LXV, Clause I of Art. LXVI, Arts. LXVII–LXIX, LXXI, LXXII, LXXX–LXXXIII, LXXXVI–CV, CVII, CX–CXII(2), Clause I of Art. CXIII, and Arts. CXIV–CXXVIII of the Patent Law, are applicable mutatis mutandis concerning designs. (Amended by Law No. 49 of the 4th year of Showa, and Enforced by Imperial Ordinance 289 on October 1st of the same year.)

ART. XXVI. A person who comes under any one of the following Descriptions is liable to penal servitude not exceeding three years, or to a fine not more than three thousand Yen :

1. A person who has, as a business, manufactured, used, sold or circulated articles indentical with those representing another person's registered designs.
2. A person who has, as a business, manufactured, used, sold or circulated articles similar to those

representing another person's registered designs.

3. A person who has, as a business, imported or transported articles indentical with or similar to those representing another person's registered designs.

The offences mentioned in the preceding clause are tried on complaint.

ART. XXVII. A person, who comes under any one of the following descriptions is liable to penal servitude not exceeding one year, or to a fine not more than one thousand Yen :

1. A person who has, by a fraudulent act, obtained registration of a design, or received a judgment either by the Patent Office or by a Court of Law.
2. A person who has placed on an article not representing a registered design, or on its container, wrapper, etc., a Design-Registration-Mark or an indication liable to be confused therewith.
3. A person who has sold or circulated an article not representing a registered design, which has on itself or on its container, wrapper, etc., a Design-Registration-Mark or an indication liable to be confused therewith.
4. A person who, for the purpose of causing an article not representing a registered design to be manufactured or used, or for the purpose of selling or circulating such an article, has, in an advertisement, sign-board, hand-bill, etc., indicated that such an

article represents a registered design, or has made an indication liable to be confused therewith.

ART. XXVIII. With reference to articles constituting the act mentioned in Clause I of Art. XXVI or those produced out of the same act, which are liable to confiscation as prescribed in Art. XIX of the Criminal Law, a judgment shall be pronounced for the confiscation and the delivery of the same article to the injured person, when there has been a request made by him before the pronouncement of a judgment by a Court of Law.

In case the articles prescribed in the preceding clause have been delivered to the injured person, he may demand a compensation to the extent of balancing the amount of damages with the price of those articles.

ART. XXIX. When a witness, an expert, or an interpreter, sworn according to Law, has made a false statement before the Patent Office, a Court of Law, or another Government Office which has received charge therefrom, he is liable to penal servitude more than three months and not exceeding ten years. (Amended by Law 49 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

When a person, who has committed an offence mentioned in the preceding clause, has made a confession before a decision or judgment of the case has been reached, the penalty may be reduced or remitted.

ART. XXX. When a person, who is or has been employed in the Patent Office, fraudulently makes known or makes use

of any knowledge acquired ex-officio concerning any design, whose application for the registration is pending, or of any secret relative to the business of the applicant for such registration, he is liable to a penal servitude not more than one year, or to a fine not exceeding one thousand Yen.

ART. XXX (2). When a person, sworn according to the prescription made in Clause II of Art. CCLXVII or in Art. CCCXXXVI of the Code of Civil Procedure, which is applicable mutatis mutandis according to the prescription of Art. XXV, has made a false statement to the Patent Office, he is liable to a fine not more than five hundred Yen. (Added by Law 49 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

ART. XXXI. When a person who has been summoned by the Patent Office as witness, expert, or interpreter fails, without proper reasons, to comply with the summons, or to discharge such a duty, he is liable to a fine not more than five hundred Yen. (Amended by Law 49 of the 4th year of Showa, Clause II being cancelled by the same, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

ART. XXXI (2). When a person ordered by the Patent Office to present or produce documents and other matters concerning the taking of evidence, fails, without proper reasons, to comply with the order, he is liable to a fine not more than five hundred Yen. (Added by Law 49 of the 4th year of Showa, and Enforced on October 1st by Imperial Ordinance No. 289 of the same year.)

ART. XXXI (3). Prescriptions given in Arts. CCVI-

CCVIII of the Law of Procedure for Noncontentious Matters are applicable mutatis mutandis to the fine mentioned in the preceding three Articles. (Ditto)

ART. XXXII. A person, who not being a patent attorney, practises the business of such an agency for design business in dealing with the Patent Office, is liable to penal servitude not exceeding one year, or to a fine not more than one thousand Yen.

SUPPLEMENTARY PROVISIONS

ART. XXXIII. The date of operation of this Law is determined by Imperial Ordinance. (Enforced on Jan. 11th of the 11th year of Taïsho by Imperial Ordinance No. 459 of the 10th year of Taisho.)

ART. XXXIV. Registrations of designs, treatments, or proceedings based upon the former Law are conclusively presumed to have been made under this Law, unless otherwise prescribed in these Supplementary Provisions.

The case shall be the same with an application, a request, or any other proceedings taken under the former Law in relation to designs.

ART. XXXV. The application for registration of designs which are still pending at the time of operation of this Law is treated according to the former Law.

Any dissatisfaction with the judgment delivered by the Patent Office prior to the enforcement of this Law may be stated during the period specified by the former Law.

ART. XXXVI. With reference to design-rights which have

come into existence before the date of operation of this Law, Description 2 of Art. XXIX of the former Patent Law is still in force, and applicable mutatis mutandis, but the provision of Art. IX is not applicable to them.

ART. XXXVII. With reference to registrations of designs which have become invalid in the course of operation of the former Law, the provision made in Art. X of the former Law, and the provisions of the former Patent Law which are applicable mutatis mutandis under the provision of the same Article are still in force, but the provision of Art. X is not applicable to them.

ART. XXXVIII. With reference to the design-fees already paid in before the operation of this Law or those in arrears, the former Law is still in force.

ART. XXXIX. When defaulted, design-fee may be paid in as arrears within six months from the date of operation of this Law, if the registration of a design is not yet cancelled at the time of operation of this Law. In such a case, an amount of money to be paid in as the design-fee shall be double the sum of design-fee prescribed under the former Law.

When design-fees are not paid in as arrears within the period prescribed in the preceding clause, design-rights are conclusively presumed to have expired at the time of operation of this Law.

ART. XL. With reference to registrations of designs based upon the former Law, the prescription made in Art. XII of the former Law is still in force, even when registration has been made after the enforcement of this Law; and so

far as the application of the prescription of the same Article is concerned, the prescriptions of the former Law contained in the same Article are still in force; consequently those registrations only may be rendered invalid through a trial, which come under the prescription made in the same Article.

SUPPLEMENTARY PROVISIONS

(Law No. 49 of the 4th Year of Showa.)

The date of operation of this Law is determined by Imperial Ordinance. (Enforced on October 1st of the 4th year of Showa by Imperial Ordinance No. 289 of the same year.)

This Law is applicable also to the matters which have come into existence before the date of operation, but does not at all conflict with any effect accruing from the former provisions.

The revised provision of Art. XVII (2) of the Patent Law, which is applicable mutatis mutandis based upon the prescription made in Art. XXV, is also applicable to the mandatory agency which has, before the date of operation of this Law, produced causes mentioned in the same Article, and whose power of attorney was neither registered nor notified of its lapse before the date of its operation.

A person, to whose case of complaint a determination was given, before the operation of this Law, may still make a complaint, according to the former provisions.

With reference to a proceeding whose period has been newly prescribed according to this Law, and which is to be

performed upon the operation of this Law, the same period shall be reckoned from the date of operation of this Law.

With reference to one whose actions are liable to be punished with a fine, according to the provisions in force before the operation of this Law, and whose case has not yet been sentenced at the time when this Law began its operation, he shall be punished, only so far as the case is concerned which is to be fined according to this Law; provided that the amount of the fine may not exceed what has been prescribed in the former provisions.

THE TRADE-MARK LAW

ART. I. A person who intends to have the exclusive use of a trade-mark, in order to represent the goods as of his own production, manufacture, working-up, selection, certification, handling, or selling, for business purpose, may obtain registration of such trade-mark.

A trade-mark for which registration may be obtained must consist of letters, devices or signs, or their combinations, and must be special and distinctive.

A trade-mark may be registered with a designation of the colours to be used thereon.

ART. II. For the following trade-marks, registration is not granted:

1. One containing a device identical with, or similar to, the Imperial Chrysanthemum Crest.
2. One identical with, or similar to, the national flag, the army or navy ensign, a decoration, a medal of merit, a badge, or the national flag of a foreign country.
3. One identical with, or similar to, the device of the Red Cross on a white ground, or the name of, or characters for the Red Cross or Geneva Cross.
4. One liable to disturb public order or morals.
5. One containing a likeness, name, title, or firm name of another person, excepting those for the use of which his consent has been obtained.
6. One identical with, or similar to, a mark customarily used on the identical or similar kind of goods.

7. One containing a device identical with, or similar to, a prize medal, a diploma of honor, or a certificate of merit, of an exposition held by the Government, or by her "Do," "Fu," or "Ken" government, or approved of by her Government, or of an exposition held or approved of in a foreign country by the Government thereof; such a prize medal, diploma of honor, or certificate of merit, as obtained by a person who intends to use its device as a part of his own trade-mark, being excepted.
8. One identical with, or similar to, a mark extensively recognized, among the dealers or customers, to belong to another person and to be used on the identical or similar kind of goods.
9. One identical with, or similar to, a trade-mark registered for another person and used on the identical or similar kind of goods.
10. One identical with, or similar to, a trade-mark of another person, for which one year has not elapsed since the date of invalidation of its registration; the case of the same person's trade-mark which has not been used for more than one year previous to the invalidation of its registration being excepted.
11. One liable to lead to the mistaking or confusing of goods.

Even if that part of a trade-mark which is liable to be regarded as its essential portion, may not, when it is separated from the other parts, obtain registration, as it does not have

features so special and distinctive as prescribed in Clause II of the preceding Article, or as it falls under Description 6 of the preceding clause, its trade-mark may be registered, when the applicant thereof states that he disclaims the said portion.

ART. III. One's own trade-marks, similar to one another and to be used on identical goods, or one's own trade-marks, identical with or similar to one another and to be used on similar goods, may be registered, only in case they have been applied for as associated trade-marks.

ART. IV. When there are conflicting applications for separate registrations of trade-marks identical with or similar to one another and to be used on identical or similar goods, registration shall be granted only to the first applicant; provided that, when there are different applicants of the same date, registration shall be granted through their agreement, and when no agreement is reached, no registration shall be granted.

When, concerning a trade-mark used on goods exhibited at an exposition held by the Government or by her "Do," "Fu," or "Ken" government or by any other body which may be deemed corresponding to the latter, or at an exposition approved of by the Government, or concerning a trade-mark used on goods exhibited at an international exposition, held in the dominion of one of the treaty powers in the International Union for the Protection of Industrial Property, by, or with the approval of, the Government thereof, an application for registration of such a trade-mark is filed, by a person using the same trade-mark, within six months from the date of the opening of the respective expositions, the same trade-mark shall be con-

clusively presumed to have been applied for registration on the very day of the opening of such expositions.

In case there are prescriptions given by Ordinances for notifications to be made beforehand with regard to such exhibits as prescribed in the preceding clause, the prescriptions of the preceding clause may not be applied to a person failing to make such notifications.

When there is a necessity for giving protection to a trade-mark used on goods to be exhibited at an exposition which is other than an international exposition mentioned in Clause II, and which is held in the dominion of a foreign power, by, or with the approvel of, the Government thereof, the case shall be determined by Imperial Ordinances.

ART. V. Any applicant for registration of a trade-mark shall designate, according to the classification determined by Ordinance, the article for which the same trade-mark is to be used.

ART. VI. Rights accruing from an application for the registration of a trade-mark may be transfered only in case they are transfered together with the business.

In case rights, accruing from an application for registration of a trade-mark, are held as those of co-ownership, none of the co-owners may assign his own share without the consent of the others.

Succession to the right accruing from an application for registration of a trade-mark may not be set up against a third party, unless notification of a change in the applicant's name is made by the successor; provided that, when there are different notifications of the same date, such succession may be

set up against a third party through the agreement of the parties concerned, and when no agreement is reached, it may not be set up against a third party.

ART. VII. A trade-mark right comes into existence by virtue of registration.

The owner of a trade-mark right shall have the exclusive right to use a certain trade-mark for the goods designated according to the prescription of Art. V.

In case a trade-mark right conflicts, in the forms the registered trade-mark is used, with a design-right, the application for which has been made prior to the day of its own application, the owner of a trade-mark right may not use the registered trade-mark in those forms, unless the owner of the said design-right gives the permission for its being worked.

ART. VIII. The force of a trade-mark right does not extend to what indicates, by methods commonly used, the names, titles, or firm-names, of the owners of these appellations, or the common names, places of production, grades, qualities, merits, uses, methods of manufacture, dates, quantities, forms, or prices, of the goods in question ; provided that these names, titles, or firm-names have not been mala fide used after registration of the said trade-marks.

The force of a trade-mark right does not extend to the particular part of a trade-mark disclaimed, according to the prescription of Clause II of Art. II.

ART. IX. A person who, before and since the application for registration of any other person's registered trade-mark, uses, bona fide, the identical or similar mark extensively

recognized among the dealers or customers of the identical or similar goods, may keep on using such mark, even after the other person's trade-mark is registered. The case shall be the same with a person who has succeeded to the use of the same mark, together with a business or occupation.

In the case mentioned in the preceding clause, the owner of a trade-mark right may demand of the person using the same mark to put on an indication fit for guarding such goods from being confused with others.

ART. X. The period of duration of a trade-mark right expires in twenty years from the date of its registration.

ART. XI. The period of duration prescribed in the preceding Article may be renewed through the application for a renewal-registration; provided that the trade-mark for which a renewal-registration is applied does not fall under Descriptions 1–4, 6, 7, or 11 of Clause I of Art. II.

ART. XII. A trade-mark right may be transfered only in case it is transfered together with the business concerned.

A trade-mark right may be transfered by division according to the goods designated based upon the prescription of Art. V.

The trade-mark rights of associated trade-marks may not be transfered by division.

In case of the trade-mark right of co-ownership, those who jointly own it may not assign their shares without the consent of the other co-owners.

ART. XIII. A trade-mark right expires when the owner of the said right has discontinued his business.

The trade-mark right of a trade-mark which has been

registered as a registered trade-mark of a foreign country expires in case such a trade-mark right has expired in its original country.

ART. XIV. The registration of a trade-mark shall be cancelled through a trial, when it falls under any one of the following descriptions :

1. When, without proper reasons, the owner of a trade-mark right has failed to use his trade-mark within the Empire for one year from the date of registration, or has discontinued the use thereof for three years in succession ; the case being excepted, when any one of the goods designated according to the provision of Art. V, or any one of the associated trade-marks, has been used.
2. When, in case there has been a transfer of a trade-mark right, registration of the transference, excepting cases of inheritance, has not been requested within one year from the date of transference.

With reference to those trade-marks registered as registered trade-marks of foreign countries, the prescription of Description 1 of the preceding clause is not applicable.

ART. XV. When an owner of a trade-mark right has intentionally made in his registered trade-mark an addition or alteration liable to cause mistake or confusion of goods and has used such, the registration of the trade-mark shall be cancelled through a trial.

A person whose registration of a trade-mark has been cancelled, according to the provision of the preceding clause, may not obtain registration of an identical or similar trade-

mark for the identical or similar goods for five years from the date on which the judgment of cancellation by the Patent Office has become final or the judgment of cancellation by the Supreme Court of Law has been passed.

ART. XVI. Registration of a trade-mark shall be rendered invalid through a trial, when it falls under any one of the following descriptions :

1. When registration has been made in contravention of the provisions of Arts. I–IV or of Clause II of the preceding Article.
2. When registration has been made in contravention of the provision of Art. XXXII of the Patent Law, which is applicable mutatis mutandis according to the provision of Art. XXIV.
3. When registration has been made for a person who is not a successor to the right accruing from the application for registration of a trade-mark.
4. When, in cases of registration made in contravention of the treaty or something corresponding to it prescribed in Art. XXXIII of the Patent Law, which is applicable mutatis mutandis according to the provision of Art. XXIV, its contravention is something corresponding to what is mentioned in Descriptions 1–3.
5. When registration has been made later on to contravene the provision of Art. XXXII of the Patent Law which is applicable mutatis mutandis according to the provision of Art. XXIV, or when, in cases of registration having been made later on to con-

travene the treaty or something corresponding to it prescribed in Art. XXXIII of the Patent Law, its contravention is something corresponding to what is mentioned in Descriptions 1–3.

The registration of a renewal of the period of duration of a trade-mark right shall be rendered invalid through a trial, when it falls under any one of the following descriptions:

1. When registration has been made in contravention of the prescription in the proviso of Art. XI.
2. When registration has been made for a person who is not the owner of a trade-mark right.

The registration of a trade-mark, or of a renewal of the period of duration of a trade-mark right shall be rendered invalid, according to the prescriptions of the two preceding clauses, even after expiration of the trade-mark right.

Art. XVII. There shall be kept at the Patent Office a Trade-Mark Register, in which shall be entered the establishments, transferences, alterations and expirations of trade-mark rights, and other particulars prescribed by Laws or Ordinances.

Regulations regarding registration shall be prescribed by Ordinances.

Art. XVIII. When a decision or a judgment of the Patent Office has become final, or when a judgment of the Supreme Court of Law has been passed to the effect that a trade-mark shall be registered, it shall be entered in the Trade-Mark Register.

Art. XIX. The Patent Office shall publish the Trade-Mark Journal, in which shall be stated particulars prescribed

in this Law, and other necessary matters relating to registered trade-marks.

ART. XX. A person who obtains registration of a trade-mark shall pay as Registration-Fee, for each case, the amount of thirty Yen, at one time, when registration is obtained for it.

A person who obtains registration of a renewal of the period of duration of a trade-mark right, shall pay as Registration-Fee, for each case, the amount of fifty Yen, at one time, when registration is obtained for it.

ART. XXI. When an application for registration of trade-mark or of a renewal of the period of duration of a trade-mark right has been filed, an examiner is caused to examine it.

ART. XXII. A trial may be requested in addition to those prescribed in this Law or in Imperial Ordinances issued under this Law, regarding the following matters :

1. Cancellation of registration of a trade-mark, based upon the provision of Art. XIV, XV, or XXXI.
2. Invalidation of registration of a trade-mark or of a renewal of the period of duration of a trade-mark right, based upon the prescription of Art. XVI.
3. Confirmation of the limits of a trade-mark right.

A request for a trial for cancellation of Description 1 or a trial for invalidation of Description 2 of the preceding clause may be made only by an interested party or by an examiner ; provided that the latter may not make a request for a trial for invalidation, on the ground that the prescriptions of Descriptions 5, 8–10 of Clause I of Art. II, and the prescription of Art. III or IV is contravened, or that the registration comes under

Description 3 of Clause I, or under Description 2 of Clause II of Art. XVI.

A request for a trial for confirmation of Description 3 of Clause I may be made only by an interested party.

Art. XXIII. A request for a trial for invalidation of Description 2 of Clause I of the preceding Article may not be made after the lapse of five years from the date of registration; those cases being excepted, which are based upon the ground that the registration contravenes the prescriptions of Descriptions 1–4, 6, 7, and 11 of Clause I of Art. II, of the proviso of Art. XI, of Clause II of Art. XV, or the provision of Art. XXXII or XXXIII of the Patent Law, which is applicable mutatis mutandis according to the prescription of Art. XXIV.

Art. XXIV. The provisions of Arts. XIII, XVI–XXX, XXXII, XXXIII, XLV, Clauses I and III of Art. LVIII, LXVIII, LXXI, LXXII, Clauses I, II and IV of Art. LXXIII, LXXIV–LXXVII, LXXX–LXXXIII, LXXXVI–CV, CVII, CIX–CXV (2), CXVII–CXXIV and CXXVIII of the Patent Law are applicable mutatis mutandis concerning trade-marks; provided that the provisions of Clauses I, II and IV of Art. LXXIII, and Arts. LXXIV–LXXVII are not applicable mutatis mutandis to the application for registration of a renewal of the period of duration of a trade-mark right. (Amended by Law No. 50 of the 4th year of Showa, and Enforced on October 1st of the same year by Imperial Ordinance No. 289 of the same year.)

Art. XXV. A person who, not only after the judgment of invalidation of registration by the Patent Office has become final or such judgment by the Supreme Court of Law has been

passed, but also before and since registration of the request for a re-trial, uses, bona-fide, an identical or similar registered trade-mark which was extensively recognized among the dealers or customers of the identical or similar goods, may continue to use the same trade-mark, even in the case of the invalidation of registration based on the ground that it contravenes the prescription of Description 9 of Clause I of Art. II. The case shall be the same with a person who has succeeded to the use of such a trade-mark together with the business.

The prescription of Clause II of Art. IX is applicable mutatis mutandis to the case mentioned in the preceding clause.

ART. XXVI. A person who intends to have exclusive use of a mark for goods connected with a business, the object of which is not the earning of profits, may obtain registration of the said mark.

The mark prescribed in the preceding clause is conclusively presumed to be a trade-mark, to which the provisions of this Law regarding trade-marks are applicable.

ART. XXVII. A corporation established by persons of the same business or by those who have close business relations with each other, for the purpose of promoting the common business interests of its members, may obtain registration of a mark as a corporation-mark, with the intention of its being exclusively used by them for the goods connected with their business.

Unless otherwise prescribed in this Law, the corporation-mark is conclusively presumed to be a trade-mark, to which the provisions of this Law regarding trade-marks are applicable.

ART. XXVIII. A corporation, intending to obtain registration of a corporation-mark according to the prescription of the preceding Article, shall in its Articles of Association state particulars relating the use of the same corporation-mark and obtain the approval of the President of the Patent Office. The case shall be the same with any changes introduced in those particulars.

ART. XXIX. The right of claiming damages due to infringement of the right of a corporation-mark shall also cover that for the damage incurred by any member of the corporation.

ART. XXX. When, in case of the amalgamation or division of a corporation prescribed in Art. XXVII, a corporation intends to transfer to another corporation the right accruing from the application for registration of a corporation-mark or the right of the same corporation-mark, the approval of the President of the Patent Office shall be obtained. In this case, the provision of Art. XXVIII is mutatis mutandis applicable.

ART. XXXI. Registration of a corporation-mark shall be cancelled through a trial, when it falls under any one of the following descriptions :

1. When a corporation has caused or allowed any of its members to use the corporation-mark in contravention of the prescriptions of its Articles of Association which have been approved of by the President of the Patent Office according to the provision of Art. XXVIII or of the preceding Article.
2. When a corporation has caused or allowed any

person outside its members to use the corporation-mark.

A corporation, whose registration of a corporation-mark has been cancelled according to the prescription of the preceding clause, may not obtain registration of an identical or similar corporation-mark for the identical or similar goods for five years from the date of cancellation. In this case, the provisions of Arts. XVI and XXII are mutatis mutandis applicable.

ART. XXXII. A corporation which obtains registration of a corporation-mark shall pay as Registration-Fee, for each case, the amount of one hundred Yen at one time, when it obtains the said registration.

A corporation which obtains registration of a renewal of the period of duration of a corporation-mark right shall pay as Registration-Fee, for each case, the amount of one hundred and fifty Yen at one time, when it obtains the said registration.

ART. XXXIII. The prescriptions of the preceding six articles are mutatis mutandis applicable to the case of a public corporation intending to obtain registration of a corporation-mark for the purpose of its being exclusively used by those who are engaged in the business within the sphere of its activity, for goods connected with their business.

ART. XXXIV. A person who comes under any one of the following descriptions is liable to penal servitude not exceeding five years, or to a fine not more than five thousand Yen :

1. A person who has used on identical or similar goods a trade-mark identical with or similar to a registered trade-mark of another person ; or a person who

delivers or sells such goods, or has them in possession for the purpose of delivery or sale.

2. A person who delivers or sells a trade-mark identical with or similar to a registered trade-mark for the purpose of causing it to be used on identical or similar goods; or a person who has it in possession for the purpose of such delivery or sale.
3. A person who has counterfeited or imitated a registered trade-mark of another person for the purpose of using it, or causing it to be used, on identical or similar goods.
4. A person who, for the purpose of delivery or sale, has imported or transported the identical or similar goods, on which is used a trade-mark identical with or similar to a registered trade-mark of another person.
5. A person who has imported or transported a trade-mark identical with or similar to a registered trade-mark of another person, for the purpose of using it, or causing it to be used, on identical or similar goods.
6. A person who manufactures, delivers, sells, or has in possession, necessary implements, for the purpose of counterfeiting or imitating a registered trade-mark of another person or of causing it to be counterfeited or imitated.
7. A person who, for identical or similar goods, has used a trade-mark identical with or similar to a registered trade-mark of another person, in adver-

tisements, signboards, hand-bills, price-lists etc., or in any other correspondences, used in business.

ART. XXXV. A person who comes under any one of the following descriptions is liable to penal servitude not exceeding three years or to a fine not more than three thousand Yen.

1. A person who, by a fraudulent act, has obtained registration of a trade-mark or of a renewal of the period of duration of a trade-mark right, or received a judgment either by the Patent Office or by a Court of Law.
2. A person who has used on goods an unregistered trade-mark bearing a trade-mark-registration-mark or a statement liable to be confused therewith ; or a person who delivers or sells such goods, or has them in possession for the purpose of such delivery or sale.
3. A person who has used an unregistered trade-mark bearing a trade-mark-registration-mark or a statement liable to be confused therewith, in advertisements, sign-boards, hand-bills, price-lists etc., or in any other correspondences, used in business.

ART. XXXVI. When a witness, an expert, or an interpreter, sworn according to law, has made a false statement before the Patent Office, or before a court of law or a Government office which has received charge therefrom, he is liable to penal servitude exceeding three months, but not exceeding ten years.

When a person who has committed an offence prescribed in the preceding clause has made confession before a decision or a judgment of the case has been reached, the penalty may be reduced or remitted. (This Article amended by Law No. 50 of the 4th year of Showa, and Enforced on October 1st of the same year by Imperial Ordinance No. 289 of the same year.)

ART. XXXVI (2). When a person, sworn according to the prescriptions of Clause II of Art. CCLXVII or Art. CCCXXXVI of the Code of Civil Procedure, which are applicable mutatis mutandis according to the provision of Art. XXIV, has made a false statement before the Patent Office, he is liable to a fine not more than five hundred Yen. (Added by Law No. 50 of the 4th year of Showa, and Enforced on October 1st of the same year by Imperial Ordinance No. 289 of the same year.)

ART. XXXVII. When a person who has been summoned by the Patent Office as witness, expert or interpreter fails, without proper reasons, to comply with the summons, or to discharge such a duty, he is liable to a fine not more than five hundred Yen. (Amended by Law No. 50 of the 4th year of Showa, the Clause II being cancelled by the same, and Enforced on October 1st of the same year by Imperial Ordinance No. 289 of the same year.)

ART. XXXVII (2). When a person ordered by the Patent Office to present or produce documents and other matters concerning the taking of evidence, fails, without proper reasons, to comply with the order, he is liable to a fine not more than five hundred Yen. (Added by Law No. 50 of the 4th year

of Showa, and Enforced on October 1st of the same year by Imperial Ordinance No. 289 of the same year.)

ART. XXXVII (3). Prescriptions given in Arts. CCVI–CCVIII of the Law of Procedure for Noncontentious Matters are applicable mutatis mutandis to the fine prescribed in the preceding three Articles. (Ditto)

ART. XXXVIII. A person, who not being a patent attorney, practises the business of such an agency for trade-mark business in dealing with the Patent Office, is liable to penal servitude not exceeding one year, or to a fine not more than one thousand Yen.

SUPPLEMENTARY PROVISIONS

ART. XXXIX. The date of operation of this Law is determined by Imperial Ordinance. (Enforced on Jan. 11th of the 11th year of Taisho by Imperial Ordinance No. 459 of December of the 10th year of Taisho.)

ART. XL. Registrations of trade-marks or of renewals of the periods of duration of trade-mark rights, and treatments or proceedings, based upon the former Law, are conclusively presumed to have been made under this Law, unless otherwise prescribed in these Supplementary Provisions.

The case shall be the same with an application, a request, or any other proceedings, taken under the former Law in relation to trade-marks.

ART. XLI. The application for registration of a trade-mark or of a renewal of the period of duration of a trade-mark right, or the matters concerning the cancellation of registration

of a trade-mark, which are still pending at the time of operation of this Law, are treated according to the former Law.

Any dissatisfaction with the judgment delivered by the Patent Office prior to the enforcement of this Law may be stated during the period specified by the former Law.

ART. XLII. With reference to registration of a trade-mark or of a renewal of the period of duration of a trade-mark right based upon the former Law, the prescription of Art. XI of the former Law is still in force, even when the said registration has been made after the enforcement of this Law; and so far as the application of the same Article is concerned, the prescriptions of the former Law contained in the same Article are still in force; consequently the same registration only may be rendered invalid through a trial, which comes under the prescription of the same Article. In this case the prescription of Clause II of Supplementary Provisions of the former Law is still in force, and consequently so far as the application of the prescription of the same clause is concerned, the prescriptions of the former Law contained in the same clause are still in force.

ART. XLIII. So far as the registration of a trade-mark or of a renewal of the period of duration of a tread-mark right obtained prior to the operation of this Law is concerned, the trial for the invalidation mentioned in the preceding Article and based upon the ground that the registration contravenes the prescription of Art. I or Description 5 of Art. II of the former Law, may not be requested after the lapse of five years from the date of operation of this Law.

The trial for the invalidation, mentioned in the preceding Article and based upon the ground that the registration contravenes the prescriptions of Descriptions 8 and 9 of Art. II, of Art. III, or of Clause II of Art. IV of the former Law, may not be requested after the lapse of three years from the date of publication, in the Trade-Mark Journal, of the registration of a trade-mark or of a renewal of the period of duration of a trade-mark right.

ART. XLIV. A person who has, prior to the operation of this Law, committed the offences mentioned in Art. XXIII of the former Law may not be tried, except on complaint, even after the operation of this Law.

SUPPLEMENTARY PROVISIONS

(Law No. 50 of the 4th year of Showa.)

The date of operation of this Law is determined by Imperial Ordinance. (Enforced on October 1st of the 4th year of Showa by Imperial Ordinance No. 289 of the same year.)

This Law is applicable also to the matters which have come into existence before the date of operation, but does not at all conflict with any effect accruing from the former provisions.

The revised provision of Art. XVII (2) of the Patent Law which is applicable mutatis mutandis based upon the prescription of Art. XXIV, is also applicable to the mandatory agency which has before the date of operation of this Law, produced causes mentioned in the same Article, and whose power of attorney was neither registered nor notified of its lapse

before the date of its operation.

A person, to whose case of complaint a determination was given, before the operation of this Law, may still make a complaint, according to the former provisions.

With reference to a proceeding whose period has been newly prescribed according to this Law, and which is to be performed upon the operation of this Law, the same period shall be reckoned from the date of operation of this Law.

With reference to one whose actions are liable to be punished with a fine, according to the provisions in force before the operation of this Law, and whose case has not yet been sentenced at the time when this Law began its operation, he shall be punished, only so far as the case is concerned which is to be fined according to this Law; provided that the amount of the fine may not exceed what has been prescribed in former provisions.

昭和七年一月七日印刷
昭和七年一月十日發行

（非賣品）

不許複製

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印刷所　東京市牛込區神樂町一丁目二番地　研究社印刷所　電話牛込五五八五番

發行所　東京市麹町區丸ノ内三丁目二番地　中松特許法律事務所　電話丸ノ内(23)一九三〇番